FEDERAL REGISTER

Vol. 78 Friday,

No. 159 August 16, 2013

Pages 49903–50312

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, September 17, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Contents

Federal Register

Vol. 78, No. 159

Friday, August 16, 2013

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
319.....49972

10 CFR
Proposed Rules:
430.....49975

14 CFR
39 (6 documents) 49903, 49906, 49908, 49910, 49913, 49915
Proposed Rules:
39 (2 documents) 49978, 49982
71 (2 documents) 49985, 49986

17 CFR
Proposed Rules:
39.....50260
140.....50260
190.....50260

21 CFR
Proposed Rules:
1.....49988
16.....49988
172.....49990

25 CFR
Proposed Rules:
151.....49990

33 CFR
117 (2 documents) 49918, 49920
165 (2 documents) 49921, 49923

40 CFR
52.....49925
180 (2 documents) 49927, 49932
300.....49939
1037.....49963
1039.....49963
1042.....49963
1068.....49963
Proposed Rules:
52 (2 documents) 49990, 49992
300.....49993

41 CFR
Proposed Rules:
102–117.....49994

43 CFR
3000.....49945

44 CFR
206.....49950

46 CFR
30.....50148
150.....50148
153.....50148

47 CFR
1.....50214
27.....50214

49 CFR
535.....49963
Proposed Rules:
192.....49996
193.....49996
195.....49996
199.....49996
541.....50014

50 CFR
648.....49967

Rules and Regulations

Federal Register
Vol. 78, No. 159
Friday, August 16, 2013

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0637; Directorate Identifier 2012–NM–006–AD; Amendment 39–17532; AD 2013–15–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by a report of an inboard main landing gear (MLG) door assembly departure due to premature fatigue cracking in the inboard MLG door hinge fittings. This AD requires repetitive inspections for cracking of the inboard MLG door hinge fittings; and replacement or modification of cracked fittings. This AD also provides an option to remove the affected MLG door. We are issuing this AD to detect and correct fatigue cracking in the inboard MLG door hinge fittings, which could result in loss of the MLG door assembly from the airplane, and the MLG door assembly could impact the flight control surfaces and result in reduced controllability of the airplane.

DATES: This AD is effective September 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 20, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on June 18, 2012 (77 FR 36222). The NPRM proposed to require repetitive inspections for cracking of the inboard MLG door hinge fittings; and modification of cracked fittings, which would terminate the repetitive inspections.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 36222, June 18, 2012) and the FAA's response to each comment.

Request To Extend Compliance Time

American Airlines requested that we revise the NPRM (77 FR 36222, June 18, 2012) to extend the compliance time for the initial inspections from 10,000 total flight cycles to before 18,000 total flight cycles. American Airlines stated that the FAA has not provided sufficient evidence to warrant issuance of regulatory action with such a reduced compliance time. American Airlines calculated that the event described in the service information represents only 0.085 percent of the airplanes under U.S. registry, and that the event described occurred at 24,000 total flight cycles.

We disagree with the request to extend the compliance time. In developing an appropriate compliance time for this action, we considered the safety implications, parts availability, and normal maintenance schedules for the timely accomplishment of the inspections and modifications. There is additional data related to the MLG door hinge failures that is not included in the manufacturer's service bulletin. Up to 10 percent of hinges inspected to date have been found with cracking. The cracking occurred between 11,000 and 24,000 total flight cycles, and has been found on both hinges of the inboard MLG door. In consideration of these items, we have determined that a compliance time of before 10,000 total flight cycles will ensure an acceptable level of safety and allow the inspections and modifications to be done during scheduled maintenance intervals for most affected operators. We have not changed the AD in this regard.

Request To Allow New Hinges Having Part Numbers (P/Ns) 113A8341–1 and 113A8341–2

American Airlines requested that we revise paragraph (g) of the NPRM (77 FR 36222, June 18, 2012) to allow installation of new hinges having P/Ns 113A8341–1 and 113A8341–2 as replacements for cracked hinges found during the inspections. American Airlines stated that paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011 (referred to in the NPRM as the appropriate source of service information), implies that an operator may install a new set of hinges having P/Ns 113A8341–1 and 113A8341–2 and restart the inspection threshold and

interval; however, the Accomplishment Instructions recommend installation of new hinges having P/Ns 113A8341–9 and 113A8341–10 if cracking is found. American Airlines stated that installation of a new set of hinges having P/Ns 113A8341–1 and 113A8341–2 should be acceptable as long as the on-going repetitive inspections are accomplished as defined in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011.

We agree to allow replacement of cracked hinges with new hinges having P/Ns 113A8341–1 and 113A8341–2, as long as inspections of the replacement hinges are accomplished at the time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011. We have added new paragraph (h)(2) to this AD to clarify that installing new MLG door hinge fittings having P/N 113A8341–1 and 113A8341–2, is acceptable for compliance with the modification specified in paragraphs (g)(1)(ii) and (g)(2)(i) of this AD. Paragraph (h)(2) also specifies that installation of the MLG door hinge fittings having P/N 113A8341–1 and 113A8341–2, must be done using a method approved in accordance with the procedures specified in paragraph (j) of this AD. We have revised subsequent paragraph identifiers accordingly. This difference has been coordinated with Boeing.

Request for Clarification of Follow-On Actions

Boeing requested that we reword paragraph (g) of the NPRM (77 FR 36222, June 18, 2012) to clarify the follow-on actions required after the inspections. Boeing stated that the requirement to continue repetitive inspections needs to be clarified since it only pertains if the hinges were found to be uncracked.

We agree that clarification is needed. The repetitive inspections are not required if the modification has been accomplished with hinges having P/Ns 113A8341–9 and 113A8341–10. However, the repetitive inspections are required if hinges having P/N 113A8341–1 and 113A8341–2 are installed. We have added this clarification in paragraphs (g)(1) and (g)(2) of this AD.

Request To Require Modification of Only Doors Having Cracked Hinges

Southwest Airlines (Southwest) requested that replacement of the hinges be required only on the door where cracks were found, rather than replacing both doors if cracking is found only on one door. Southwest stated it wants the option to not modify a door on which the hinges are not cracked, even though there is hinge cracking on the door on the other side of the airplane. Southwest added that, for a door that has no cracked hinges, the repetitive inspections would remain effective, and modification would not be required prior to further flight.

We agree that only doors with cracked hinges need to be modified, and that the repetitive inspections specified in the AD remain in effect for the door that has not been modified. We have revised paragraph (g)(2)(i) of this AD to clarify that modification is only required on affected doors.

Request for the Option To Remove Inboard MLG Door in Accordance With the Configuration Deviation List (CDL)

Southwest requested that we allow the option of removing the inboard MLG door from the airplane as specified in the CDL. Southwest noted that the CDL allows for continued operation without the inboard MLG door.

We agree with adding an option to the AD to remove the affected inboard MLG door. However, the removal must be done in accordance with a method approved by the FAA because applicable flight effects and restrictions must be accounted for. In addition, if a door with new hinge fittings is reinstalled, the inspection required by paragraph (h) of this AD must be done. We have added paragraph (g)(2)(ii) of this AD accordingly. We have also added note 1 to paragraph (g)(2)(ii) of this AD to this AD to refer to the CDL as guidance.

Supplemental Type Certificate (STC) Winglet Comment

Aviation Partners Boeing stated that the installation of winglets per STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the accomplishment of the manufacturer's service instructions.

We have added paragraph (c)(1) to this AD to state that installation of STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17. For all other AMOC requests, the operator must request approval of an AMOC in accordance with the procedures specified in paragraph (j) of this AD.

New Optional Installation Paragraph

We have added new paragraph (h)(1) to this AD to clarify that installing new MLG door hinge fittings having P/N 113A8341–9 and 113A8341–10, terminates the inspection requirements of this AD for only the door on which new fittings are installed.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 36222, June 18, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 36222, June 18, 2012).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 1,175 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle.	$299,625 per inspection cycle.

We estimate the following costs to do any necessary modification that would be required based on the results of the inspection. We have no way of determining the number of airplanes that might need this modification:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Modification	9 work-hours × $85 per hour = $765	$6,550	$7,315

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–15–16 The Boeing Company: Amendment 39–17532; Docket No. FAA–2012–0637; Directorate Identifier 2012–NM–006–AD.

(a) Effective Date

This AD is effective September 20, 2013.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A786257888006045 6C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by a report of an inboard main landing gear (MLG) door assembly departure due to premature fatigue cracking in the inboard MLG door hinge fittings. We are issuing this AD to detect and correct fatigue cracking in the inboard MLG door hinge fittings, which could result in loss of the MLG door assembly from the airplane, and the MLG door assembly could impact the flight control surfaces and result in reduced controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Initial and Repetitive Inspections

Except as provided by paragraph (i) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011, do either a detailed or surface high frequency eddy current (HFEC) inspection for cracking of the left- and right-side inboard MLG door hinge fittings, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011.

(1) If no cracking is found, at the times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011, do the actions specified in either paragraph (g)(1)(i) or (g)(1)(ii) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011.

(i) Repeat either a detailed or a surface HFEC inspection for cracking of the left- and right-side inboard MLG door hinge fittings.

(ii) Modify the hinge fittings on the inboard MLG doors by installing P/N 113A8341–9 and 113A8341–10, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011. Doing the modification specified in this paragraph terminates the inspection requirements for only the door on which new fittings are installed.

(2) If any cracking is found, before further flight, do the actions specified in either paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) Modify the hinge fittings on all affected inboard MLG doors by installing P/N 113A8341–9 and 113A8341–10, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011. Doing the modification specified in this paragraph terminates the inspection requirements for only the door on which new fittings are installed.

(ii) Remove the affected MLG door, using a method approved in accordance with the procedures specified in paragraph (j) of this AD. For airplanes on which this door is reinstalled, before further flight, accomplish the actions specified in either paragraph

(h)(1) or (h)(2) of this AD on the reinstalled door.

Note 1 to paragraph (g)(2)(ii) of this AD: Guidance for removing the door can be found in Section 32–10 of Appendix CDL, Configuration Deviation List, Model 737–100/200/300/400/500/600/700/800/900/900 ER Series, to the Boeing 737–700 Airplane Flight Manual Document D631A001.

(h) Optional Installation

(1) Installing new MLG door hinge fittings having P/N 113A8341–9 and 113A8341–10, terminates the inspection requirements of this AD for only the doors on which new fittings are installed.

(2) Installing new MLG door hinge fittings having P/N 113A8341–1 and 113A8341–2, is acceptable for compliance with the modification specified in paragraphs (g)(1)(ii) and (g)(2)(i) of this AD, provided the inspections (both the initial and the repetitive inspections) required by paragraph (g) of this AD are done within the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011. Installation of the MLG door hinge fittings having P/N 113A8341–1 and 113A8341–2, as applicable, must be done using a method approved in accordance with the procedures specified in paragraph (j) of this AD. Accomplishing the requirements of this paragraph does not terminate the inspection requirements of paragraph (g) of this AD.

(i) Exception to the Service Information

Where Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov*.

(l) Material Incorporated by Reference

(1) The Director of the **Federal Register** approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 737–52A1167, dated December 1, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on July 21, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–18090 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0361; Directorate Identifier 2013–NM–026–AD; Amendment 39–17527; AD 2013–15–11]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 727 airplanes. This AD was prompted by a report of cracking in the left-side chord of the fin closure rib on the vertical stabilizer. This AD requires repetitive inspections of the left and right side chords of the fin closure rib for cracking and corrosion, and related investigative and corrective actions if necessary. We are issuing this AD to detect and correct cracking and corrosion in the left- and right-side chords of the fin closure rib, which could lead to widespread cracking in the chords that might weaken the fin closure rib structure and result in loss of airplane control due to lack of horizontal stabilizer support.

DATES: This AD is effective September 20, 2013.

The Director of the **Federal Register** approved the incorporation by reference of a certain publication listed in the AD as of September 20, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal**

Register on May 2, 2013 (78 FR 25662). The NPRM proposed to require repetitive inspections of the left- and right-side chords of the fin closure rib for cracking and corrosion, and related investigative and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. Boeing stated that it supports the NPRM (78 FR 25662, May 2, 2013).

FedEx Express commented that it has four airplanes that will be affected by the NPRM (78 FR 25662, May 2, 2013). This commenter also noted that the proposed inspection threshold and intervals can be accomplished within its planned scheduled maintenance checks, that the work-hours and elapsed time to accomplish the proposed inspections will not impact the overall span-time of the planned scheduled maintenance check, and that the proposed inspections do not require any special inspection techniques, training, or tooling.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed—except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 25662, May 2, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 25662, May 2, 2013).

Costs of Compliance

We estimate that this AD affects 98 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	17 work-hours × $85 per hour = $1,445 per inspection cycle.	$0	$1,445 per inspection cycle	$141,610 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–15–11 The Boeing Company: Amendment 39–17527; Docket No. FAA–2013–0361; Directorate Identifier 2013–NM–026–AD.

(a) Effective Date

This AD is effective September 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by a report of cracking in the left-side chord of the fin closure rib on the vertical stabilizer. We are issuing this AD to detect and correct cracking and corrosion in the left- and right-side chords of the fin closure rib, which could lead to widespread cracking in the chords that might weaken the fin closure rib structure, and result in loss of airplane control due to lack of horizontal stabilizer support.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Detailed and High Frequency Eddy Current (HFEC) Inspections

Within 24 months after the effective date of this AD: Do a detailed inspection for cracking and corrosion of the left- and right-side chords of the fin closure rib, and do a HFEC inspection of the left- and right-side chords for cracking, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 727–55–0095, dated September 24, 2012. If any cracking or corrosion is found, before further flight, repair or replace the affected right- or left-side chord using a method approved in accordance with the procedures specified in

paragraph (h) of this AD. Repeat the detailed inspection and HFEC inspection thereafter at intervals not to exceed 26 months.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(i) Related Information

For more information about this AD, contact Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov.*

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Special Attention Service Bulletin 727–55–0095, dated September 24, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 21, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–18098 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0448; Directorate Identifier 2013–CE–007–AD; Amendment 39–17542; AD 2013–16–04]

RIN 2120–AA64

Airworthiness Directives; Eclipse Aerospace, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Eclipse Aerospace, Inc. Model EA500 airplanes equipped with Avio, Avio with ETT, or Avio NG 1.0 avionics suites. This AD was prompted by a report of potential aircraft hardware failure in the autopilot control panel and the center switch panel. This AD requires either incorporating updates to the aircraft computer system software or incorporating a temporary revision to the aircraft flight manual. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective September 20, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of September 20, 2013.

ADDRESSES: For service information identified in this AD, contact Eclipse Aerospace, Inc., 26 East Palatine Road, Wheeling, Illinois 60090; telephone: (877) 373–7978; Internet: *www.eclipse.aero.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Scott Fohrman, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; phone: (847) 294–7136; fax: (847) 294–7834; email: *scott.fohrman@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on May 22, 2013 (78 FR 30243). The NPRM proposed to require either incorporating updates to the aircraft computer system or incorporating a temporary revision to the aircraft flight manual.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 30243, May 22, 2013) or on the determination of the cost to the public. However, we have received a revision to one of the service bulletins referenced in the NPRM. The revision does not add any additional burden to the owners/operators of the airplanes affected by the NPRM; therefore, we are including the revised service information into this AD as an additional method of compliance.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 30243, May 22, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 30243, May 22, 2013).

Differences Between This AD and the Service Information

Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–026, Rev. A, dated November 6, 2012, and SB 500–31–026, Rev. B, dated March 27, 2013, which applies only to

airplanes equipped with NG 1.0 avionics suites, requires incorporating a temporary revision into the airplane flight manual (AFM) and incorporating an update to the aircraft computer system (ACS) hardware with monthly data uploads to Eclipse Aerospace, Inc. until the ACS software is updated. Specifically, the AFM revision requires an altered engine start and emergency procedures checklist.

This AD allows doing either the AFM revision or the ACS software update.

Costs of Compliance

We estimate that this AD affects 81 airplanes of U.S. registry. There are 38 of the affected airplanes equipped with Avio or Avio ETT avionics suites and 43 of the affected airplanes equipped with NG 1.0 avionics suites.

We estimate the following costs to comply with this AD. Airplanes equipped with NG 1.0 avionics suites will be allowed do either the AFM update or the ACS update:

ESTIMATED COSTS FOR AIRPLANES EQUIPPED WITH AVIO OR AVIO ETT AVIONICS SUITES

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
ACS update for airplanes equipped with Avioor Avio ETT avionics suites.	.5 work-hour × $85 per hour = $42.50.	$1,950	$1,992.50	$1,992.50 × 38 affected airplanes = $75,715.00.

ESTIMATED COSTS FOR AIRPLANES EQUIPPED WITH NG 1.0 AVIONICS SUITES

[Requires either the AFM update OR the ACS update]

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM update for airplanes equipped with NG 1.0 avionics suites.	.5 work-hour × $85 per hour = $42.50.	Not applicable	$42.50	$42.50 × 43 affected airplanes = $1,827.50.
OR				
ACS update for airplanes equipped with NG 1.0 avionics suites.	.5 work-hour × $85 per hour ..... = $42.50	$37,000	$37,042.50	$37,042.50 × 43 affected airplanes = $1,592,827.50.

Incorporating the AFM update represents a terminating action for AD compliance without imposing any limitations on aircraft operations. It is the operator's choice to incorporate either the AFM update or the ACS update.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–16–04 Eclipse Aerospace, Inc.: Amendment 39–17542; Docket No. FAA–2013–0448; Directorate Identifier 2013–CE–007–AD.

(a) Effective Date

This AD is effective September 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Eclipse Aerospace, Inc. Model EA500 airplanes, all serial numbers, that are certificated in any category, and are equipped with:

(1) Avio avionics suites; or

(2) Avio with ETT avionics suites; or

(3) Avio NG 1.0 avionics suites.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code, Code 23: Communications.

(e) Unsafe Condition

This AD was prompted by a report of potential aircraft hardware failure in the

autopilot control panel and the center switch panel. We are issuing this AD to prevent failure of the hardware/software combination within the autopilot control panel and/or center switch panel, which could result in uncommanded fire suppression system activation and simultaneous shutdown of both engines.

(f) Compliance

Unless already done, do the following actions within the compliance times specified in paragraph (g) of this AD.

(g) Update Aircraft Computer Software (ACS)

(1) *For airplanes equipped with Avio or Avio with ETT avionics suites:* Within 6 calendar months after September 20, 2013 (the effective date of this AD), update the ACS following paragraphs 3.A. through 3.C. of the Accomplishment Instructions in Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–014, Rev. A, dated February 15, 2011.

(2) *For airplanes equipped with NG 1.0 avionics suites:* Within 6 calendar months after September 20, 2013 (the effective date of this AD), do one of the following:

(i) Insert Temporary Revision No. 016, to EA500 POH and FAA-Approved Airplane Flight Manual, Firewall Valve, 06–122204–TR016, issued November 9, 2012, into the Limitations section of the airplane flight manual following paragraph 3.B.(1)(a) of the Accomplishment Instructions in Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–026, Rev. A, dated December 7, 2012, or Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–026, Rev. B, dated March 27, 2013; or

(ii) Update the ACS following paragraphs 3.A. through 3.C. of the Accomplishment Instructions in Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–019, Rev. B, dated March 13, 2013.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

For more information about this AD, contact Scott Fohrman, Aerospace Engineer, FAA, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; phone: (847) 294–7136; fax: (847) 294–7834; email: *scott.fohrman@faa.gov.*

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–014, Rev. A, dated February 15, 2011.

(ii) Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–019, Rev. B, dated March 13, 2013.

(iii) Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–026, Rev. A, dated December 7, 2012.

(iv) Eclipse Aerospace, Inc. Mandatory Service Bulletin Number SB 500–31–026, Rev. B, dated March 27, 2013.

(v) Temporary Revision No. 016, to EA500 POH and FAA-Approved Airplane Flight Manual, Firewall Valve, 06–122204–TR016, issued November 9, 2012.

(3) For Eclipse Aerospace, Inc. service information identified in this AD, contact Eclipse Aerospace, Inc. 26 East Palatine Road, Wheeling, Illinois 60090; telephone: (877) 373–7978; Internet: *www.eclipse.aero.*

(4) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on July 31, 2013.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–18912 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0207; Directorate Identifier 2011–NM–071–AD; Amendment 39–17530; AD 2013–15–14]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2008–06–29, which applied to all The Boeing Company Model 737–300, –400, and –500 series airplanes. AD 2008–06–29 required repetitive inspections of the downstop assemblies on the main tracks of the No. 2, 3, 4, and No. 5 slats and the inboard track of the No. 1 and 6 slats to verify if any parts are missing, damaged, or in the wrong order; other specified actions; and related investigative and corrective actions if necessary. This new AD retains these requirements and adds an inspection of the slat can interior for foreign object debris (FOD), and removal of any FOD found; modification of the slat track hardware; an inspection for FOD and for damage to the interior surface of the slat cans; and related investigative and corrective actions, if necessary. This AD was prompted by development of a modification by the manufacturer, which, when installed, would terminate the repetitive inspections. We are issuing this AD to prevent loose or missing parts in the main slat track downstop assemblies, which could puncture the slat track housing and result in a fuel leak and consequent fire.

DATES: This AD is effective September 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 20, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA,

Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2008–06–29, Amendment 39–15441 (73 FR 15397, March 24, 2008) (''AD 2008–06–29''). AD 2008–06–29 applied to the specified products. The NPRM published in the **Federal Register** on March 11, 2013 (78 FR 15332). The NPRM proposed to continue to require repetitive inspections of the downstop assemblies on the main tracks of the No. 2, 3, 4, and No. 5 slats and the inboard track of the No. 1 and 6 slats to verify if any parts are missing, damaged, or in the wrong order; other specified actions; and related investigative and corrective actions if necessary. The NPRM also proposed to add an inspection of the slat can interior for foreign object debris (FOD), and removal of any FOD found; modification of the slat track hardware; an inspection for FOD and for damage to the interior surface of the slat cans; and related investigative and corrective actions, if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 15332, March 11, 2013) and the FAA's response to each comment.

Concurrence With NPRM (78 FR 15332, March 11, 2013)

Boeing stated that it concurs with the content of the proposed rule (78 FR 15332, March 11, 2013).

Statement Regarding Installation of Winglets

Aviation Partners Boeing (APB) stated that the installation of winglets per STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/2C6E3DBDDD36F91C862576A4005D64E2?OpenDocument&Highlight=st01219se*) does not affect the actions specified in the NPRM (78 FR 15332, March 11, 2013).

We concur. We have added new paragraph (c)(2) to this AD, which states that STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/2C6E3DBDDD36F91C862576A4005D64E2?OpenDocument&Highlight=st01219se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of Section 39.17 of the Federal Aviation Regulations (14 CFR 39.17). For all other AMOC requests, the operator must request approval of an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the change described previously—and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 15332, March 11, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 15332, March 11, 2013).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 568 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of slat track housing [retained actions from AD 2008–06–29 (73 FR 15397, March 24, 2008)].	4 work-hours × $85 per hour = $340 per inspection cycle.	$0	$340	$193,120
One-time detailed inspection of slat can [new action].	5 work-hours × $85 per hour = $85	0	425	241,400
Installation of modification [new action]	12 work-hours × $85 per hour = $1,020	3,124	4,144	2,353,792

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2008–06–29, Amendment 39–15441 (73 FR 15397, March 24, 2008), and adding the following new AD:

2013–15–14 The Boeing Company: Amendment 39–17530; Docket No. FAA–2013–0207; Directorate Identifier 2011–NM–071–AD.

(a) Effective Date

This AD is effective September 20, 2013.

(b) Affected ADs

This AD supersedes AD 2008–06–29, Amendment 39–15441 (73 FR 15397, March 24, 2008).

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/2C6E3DBDDD36F91C862576A4005D64E2?OpenDocument&Highlight=st01219se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 57: Wings.

(e) Unsafe Condition

This AD was prompted by reports of fuel leaking from a puncture in the slat track housing (referred to as ''slat can''). We are issuing this AD to prevent loose or missing parts in the main slat track downstop assemblies, which could puncture the slat track housing and result in a fuel leak and consequent fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Inspection of Downstop Assemblies and Corrective Action

This paragraph restates the requirements of paragraph (f) of AD 2008–06–29, Amendment 39–15441 (73 FR 15397, March 24, 2008), with revised service information. At the applicable times specified in Table 1 of paragraph 1.E. of Boeing Alert Service Bulletin 737–57A1301, dated February 5, 2008; or Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011; except as provided by paragraph (g)(1) of this AD: Do a detailed inspection or borescope inspection of the downstop assemblies on the main tracks of the No. 2, 3, 4, and 5 slats and the inboard track of the No. 1 and 6 slats to verify if any parts are missing, damaged, or installed in the wrong order; and do all the other specified, related investigative, and corrective actions as applicable; by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1301, dated February 5, 2008; or Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011; except as provided by paragraphs (g)(2) and (g)(3) of this AD. Repeat the inspection thereafter at the applicable times specified in Table 1 of paragraph 1.E. of Boeing Alert Service Bulletin 737–57A1301, dated February 5, 2008; or Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011. Do all applicable related investigative and corrective actions before further flight. As of the effective date of this AD, only Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011, may be used to accomplish the actions required by this paragraph.

(1) Where Boeing Alert Service Bulletin 737–57A1301, dated February 5, 2008, or Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011, specifies counting the compliance time from ''the date on the service bulletin,'' this AD requires counting the compliance time from April 8, 2008 (the effective date of AD 2008–06–29, Amendment 39–15441 (73 FR 15397, March 24, 2008)).

(2) For airplanes on which any downstop assembly part is missing or damaged, a borescope inspection of the inside of the slat track housing for loose parts and damage to the wall of the slat track housing may be accomplished in lieu of the detailed inspection of the inside of the slat track housing that is specified in Boeing Alert Service Bulletin 737–57A1301, dated February 5, 2008; or Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011. As of the effective date of this AD, only Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011, may be used to do the actions specified in this paragraph.

(3) If any damaged slat track housing is found during any inspection required by paragraph (g) of this AD: Before further flight, repair in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011; replace the slat can with a new slat can having the same part number, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011; or repair the slat can using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) New Detailed Inspection for Foreign Object Debris (FOD)

Within 24 months after the effective date of this AD, do a one-time detailed inspection of the slat can interior to detect FOD, in accordance with Part III of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011. If any FOD is found, before further flight, remove it, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011.

(i) New Modification and Inspection

Within 72 months or 15,000 flight cycles, whichever occurs first, after the effective date of this AD: Modify the slat track hardware by installing new downstop assembly hardware, and do a detailed inspection for FOD and a one-time inspection for damage to the interior surface of the slat can for the inboard and outboard tracks of slats 2 through 5, and the inboard slats of tracks 1 and 6; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011. Do all applicable related investigative and corrective actions before further flight. Accomplishment of the actions required by this paragraph terminates the inspections required by paragraphs (g) and (h) of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g), (h), and (i) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–57A1301, Revision 1, dated September 24, 2009; or Boeing Alert Service Bulletin 737–57A1301, Revision 2, dated January 17, 2011; which are not incorporated by reference in this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has

been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2008–06–29, Amendment 39–15441 (73 FR 15397, March 24, 2008), are approved as AMOCs for the corresponding provisions of this AD.

(l) Related Information

For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *nancy.marsh@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Boeing Service Bulletin 737–57A1301, Revision 3, dated August 11, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 21, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19811 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0362; Directorate Identifier 2013–NM–030–AD; Amendment 39–17531; AD 2013–15–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 727 airplanes. This AD was prompted by an evaluation by the design approval holder indicating that the frame-to-floor beam attachment is subject to widespread fatigue damage. This AD requires repetitive high frequency eddy current inspections for any crack of the frames at body station (STA) 188 through STA 344, and repair if necessary. We are issuing this AD to detect and correct fatigue cracking at the frame-to-floor beam attachment, on both the left- and right-sides, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

DATES: This AD is effective September 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 20, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on May 3, 2013 (78 FR 25905). The NPRM proposed to require repetitive high frequency eddy current inspections for any crack of the frames at body STA 188 through STA 344, and repair if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Boeing stated that it supports the NPRM (78 FR 25905, May 3, 2013).

Fedex stated that the NPRM (78 FR 25905, May 3, 2013) will be effective for twenty of its Model 727–200 airplanes, the inspection threshold and intervals will fit within its planned scheduled maintenance checks and therefore will be no impact to available lift, the number of man-hours and elapsed time to accomplish the inspections will not impact the overall span-time of its planned scheduled maintenance check, and the inspections do not require any special inspection techniques, training, or tooling.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting thisAD as proposed—except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 25905, May 3, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 25905, May 3, 2013).

Costs of Compliance

We estimate that this AD affects 106 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	118 work-hours × $85 per hour = $10,030 per inspection cycle.	$0	$10,030 per inspection cycle	$1,063,180 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–15–15 The Boeing Company: Amendment 39–17531; Docket No. FAA–2013–0362; Directorate Identifier 2013–NM–030–AD.

(a) Effective Date

This AD is effective September 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 727–53–0234, dated January 17, 2013.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that the frame-to-floor beam attachment is subject to widespread fatigue damage. We are issuing this AD to detect and correct fatigue cracking at the frame-to-floor beam attachment, on both the left- and right-sides, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Repair

Before the accumulation of 61,000 total flight cycles, or within 24 months after the effective date of this AD, whichever occurs later, do a high frequency eddy current inspection for cracking of the frames (for certain stations), in the area of the floor beam attachments on both the left- and right-sides of the airplane, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 727–53–0234, dated January 17, 2013. Repeat this inspection thereafter at intervals not to exceed 20,000 flight cycles. If any crack is found during any inspection required by this AD, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (h) of this AD.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(i) Related Information

For more information about this AD, contact Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov.*

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Special Attention Service Bulletin 727–53–0234, dated January 17, 2013.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 21, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–18122 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1321; Directorate Identifier 2011–NM–147–AD; Amendment 39–17528; AD 2013–15–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2004–15–07, for certain Airbus Model A310 series airplanes. AD 2004–15–07 required repetitive inspections for fatigue cracking of the area around the fasteners of the landing plate of the aileron access doors of the bottom skin panel of the wings, and related corrective action. AD 2004–15–07 also provided for an optional terminating action to end the repetitive inspections. This new AD reduces the initial inspection compliance time and intervals, and provides additional terminating action options. This AD was prompted by a reassessment of a previous fatigue threshold and inspection interval, which resulted in a determination that reduced inspection thresholds and intervals for accomplishment of the tasks are necessary. We are issuing this AD to detect and correct fatigue cracking of the area around the fasteners of the landing plate of the aileron access doors and the bottom skin panel of the wings, which could result in reduced structural integrity of the wings.

DATES: This AD becomes effective September 20, 2013.

The Director of the Federal Registe approved the incorporation by reference of certain publications listed in this AD as of September 20, 2013.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 31, 2004 (69 FR 44592, July 27, 2004).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on February 5, 2013 (78 FR 8054), and proposed to supersede AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004). The NPRM proposed to correct an unsafe condition for the specified products. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0125, dated June 30, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> DGAC [Direction Générale de l'Aviation Civile] France issued AD 2003–242(B) [which corresponds to FAA AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)] to require an inspection programme for aeroplanes with pre- and post-Airbus modification 05106 configurations (Airbus SB A310–57–2004) in order to detect any crack located on the trailing edge of the wing bottom skin No. 2 panel of the all-speed-aileron servo control bay. A crack at this location, if not detected and corrected, would propagate towards the wing rear spar and ultimately into the wing fuel tank area. Undetected cracks would affect the structural integrity of the [left hand] LH and/or [right hand] RH wing.
>
> Since issuance of DGAC France AD 2003–242(B) [which corresponds to FAA AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)], a reassessment of the previous fatigue threshold and inspection interval has been completed. As a result of the reassessment, the inspection thresholds and intervals for accomplishment of the tasks as defined in Airbus SB A310–57–2082 have been adjusted and reduced. Airbus SB A310–57–2082 Revision 03 has been published, in which the compliance time periods for these inspection thresholds and intervals have been amended.
>
> For the reasons stated above, this [EASA] AD retains the requirements of the DGAC France AD 2003–242(B) [which corresponds to FAA AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)], which is superseded, and requires implementation of the amended inspection programme.

Corrective action includes doing a permanent repair (installing a repair plate and new landing plates), a temporary repair (crack-stop drilling and application of a protective coating) followed by repetitive inspections until a permanent repair is done, and a repair approved by the FAA or EASA (or its delegated agent). This AD also adds optional permanent repairs.

The initial inspection compliance times are dependent on the configuration (modification status, repair status, and crack length), and type of use (short range, long range, and normal). For airplanes without temporary repairs, the initial inspection compliance time ranges between 2,000 total flight cycles or 10,200 total flight hours, whichever occurs first; and 12,000 total flight cycles or 24,000 total flight hours, whichever occurs first. If the total flight cycles or total flight hours compliance time has been exceeded, the initial inspection compliance time (grace period) ranges between 200 flight cycles or 1,000 flight hours, to within 1,000 flight cycles or 2,800 flight hours, whichever occurs first.

For airplanes with temporary repairs, the initial inspection compliance time is dependent on crack length and ranges between 7 flight cycles or 35 flight hours, whichever occurs first, since the repair; to within 100 flight cycles or 200 flight hours, whichever occurs first, since the repair.

For airplanes with a temporary repair, the compliance time for completing the permanent repair ranges between 35 flight cycles or 175 flight hours, whichever occurs first, after completing the temporary repair; to within 500 flight cycles or 1,000 flight hours,

whichever occurs first, after completing the temporary repair.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Change Service Information Reference

FedEx stated that paragraph (n)(1)(iii) in the NPRM (78 FR 8054, February 5, 2013) should refer to Airbus Mandatory Service Bulletin A310–57–2082, Revision 02, dated October 17, 2008, instead of Airbus Service Bulletin A310–57–2082, dated June 11, 2002. FedEx noted that paragraph (n)(1)(i) also refers to Airbus Service Bulletin A310–57–2082, dated June 11, 2002.

We agree to change the reference, and have changed paragraph (n)(1)(iii) in this AD accordingly.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously—and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 8054, February 5, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 8054, February 5, 2013).

Costs of Compliance

We estimate that this AD will affect about 58 products of U.S. registry.

The actions that were required by AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004), and are retained in this AD take about 2 work-hours per product, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required actions is $170 per product.

We estimate that it will take about 4 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $19,720, or $340 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004), and adding the following new AD:

2013–15–12 Airbus: Amendment 39–17528. Docket No. FAA–2012–1321; Directorate Identifier 2011–NM–147–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective September 20, 2013.

(b) Affected ADs

This AD supersedes AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004).

(c) Applicability

This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category, all serial numbers; except for airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airplanes that have been modified in service according to Airbus Service Bulletin A310–57–2081 or during production by Airbus modification 12525.

(2) Airplanes that have been repaired according to Airbus Repair Inspection R573–49243 or R573–49237.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a reassessment of the previous fatigue threshold and inspection interval specified in AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004), which resulted in a determination that reduced inspection thresholds and intervals for accomplishment of the tasks are necessary. We are issuing this AD to detect and correct fatigue cracking of the area around the fasteners of the landing plate of the aileron access doors and the bottom skin panel of the wings, which could result in reduced structural integrity of the wings.

(f) Compliance

You are responsible for having the actions required by this AD performed within the

compliance times specified, unless the actions have already been done.

(g) Retained Repetitive Inspections for Airplanes Without Airbus Modification 5106

This paragraph restates the requirements of paragraph (a) of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004). For airplanes on which Airbus Modification 5106 (Airbus Service Bulletin A310–57–2004, Revision 2, dated March 5, 1990, which is not incorporated by reference in this AD) has not been done as of August 31, 2004 (the effective date of AD 2004–15–07): Within 2,000 flight cycles after August 31, 2004 (the effective date of AD 2004–15–07), or within 3,000 flight cycles after the last inspection done per paragraph (k) of AD 98–26–01, Amendment 39–10942 (63 FR 69179, December 16, 1998), whichever is first; do a high frequency eddy current (HFEC) inspection for cracking of the area around the fasteners of the landing plate of the wing bottom skin panel No. 2 of the left and right wings. Do the inspection per the Accomplishment Instructions of Airbus Service Bulletin A310–57–2082, dated June 11, 2002. If no cracking is found, repeat the inspection thereafter at intervals not to exceed 1,900 flight cycles, until accomplishment of the terminating action specified in paragraph (j) of this AD. Accomplishment of the inspection required by paragraph (k) of this AD terminates the requirements of paragraph (g) of this AD.

(h) Retained Repetitive Inspection for Airplanes With Airbus Modification 5106

This paragraph restates the requirements of paragraph (b) of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004). For airplanes on which Airbus Modification 5106 has been done as of August 31, 2004 (the effective date of AD 2004–15–07): Do the HFEC inspection required by paragraph (g) of this AD at the applicable time specified in paragraph (h)(1), (h)(2), (h)(3), or (h)(4) of this AD. If no cracking is found, repeat the inspection thereafter at intervals not to exceed 1,900 flight cycles, until accomplishment of the terminating action specified in paragraph (j) of this AD. Accomplishment of the inspection required by paragraph (k) of this AD terminates the requirements of paragraph (h) of this AD.

(1) For airplanes that have accumulated fewer than 17,000 total flight cycles since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first, as of August 31, 2004 (the effective date of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)): Inspect prior to the accumulation of 18,000 total flight cycles.

(2) For airplanes that have accumulated 17,000 or more total flight cycles, but fewer than 19,001 total flight cycles since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first, as of August 31, 2004 (the effective date of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)): Inspect within 2,000 flight cycles after August 31, 2004 (the effective date of AD 2004–15–07).

(3) For airplanes that have accumulated 19,001 or more total flight cycles, but fewer than 21,001 total flight cycles since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first, as of August 31, 2004 (the effective date of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)): Inspect with 1,200 flight cycles after August 31, 2004 (the effective date of AD 2004–15–07).

(4) For airplanes that have accumulated 21,001 or more total flight cycles since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first, as of August 31, 2004 (the effective date of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004)): Inspect within 500 flight cycles after August 31, 2004 (the effective date of AD 2004–15–07).

(i) Retained Corrective Action

This paragraph restates the requirements of paragraph (c) of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004). If any cracking is found during any inspection required by paragraph (g) or (h) of this AD: Before further flight, do the actions required by either paragraph (i)(1) or (i)(2) of this AD.

(1) Do a permanent repair of the area by doing the applicable corrective actions per the Accomplishment Instructions of Airbus Service Bulletin A310–57–2082, dated June 11, 2002. Accomplishment of the permanent repair terminates the repetitive inspections required by this AD for the repaired area only.

(2) Do the terminating action specified in paragraph (j) of this AD.

(j) Retained Optional Terminating Action, With New Service Information and New Options

This paragraph restates the optional terminating action information specified in paragraph (d) of AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004), with new service information and new options. Modification of the landing plate of the aileron access doors of the wing bottom skin panel No. 2 of the left and right wings by doing all the actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2081, dated June 11, 2002; or Airbus Service Bulletin A310–57–2081, Revision 03, dated October 13, 2010; or by doing the repair in accordance with Airbus Repair Instruction R573–49243, Revision C, dated July 16, 2003; or Airbus Repair Instruction R573–49237, Revision D, dated July 16, 2003; which terminates the requirements of this AD. Where Airbus Service Bulletin A310–57–2081, dated June 11, 2002; and Airbus Service Bulletin A310–57–2081, Revision 03, dated October 13, 2010; specify contacting the manufacturer for disposition of certain repair conditions that might be associated with the modification procedure, this AD requires that the repair be done in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent); or the European Aviation Safety Agency (EASA) (or its delegated agent).

(k) New Inspections, Related Investigative Actions, and Corrective Actions

Except as specified in paragraph (m)(1) of this AD, at the applicable time specified in Paragraph 1.E., ''Compliance,'' of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010: Do an HFEC inspection to detect cracking of the area around the fasteners of the landing plate of the wing bottom skin panel No. 2 of the left and right wings; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, except as required by paragraph (m)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection of the area around the fasteners of the landing plate of the wing bottom skin panel number 2 of the left and right wings thereafter at the applicable intervals, including the compliance times for post temporary repair inspections, specified in Paragraph 1.E., ''Compliance,'' of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, except as specified in paragraph (m)(3) of this AD. The temporary repair of cracks, as identified in Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, does not constitute terminating action for the repetitive inspections required by this AD. Accomplishment of the inspection required by this paragraph terminates the requirements of paragraphs (g) and (h) of this AD. Doing the modification specified in paragraph (j) of this AD terminates the repetitive inspections required by this paragraph.

(l) New Permanent Repair

For airplanes on which the temporary repair as specified in Airbus Mandatory Service Bulletin A310–57–2082 has been done: Within the applicable time specified in Paragraph 1.E., ''Compliance,'' of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, do the permanent repair, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, except as provided by paragraph (m)(2) of this AD.

(m) New Exceptions to Service Information

(1) Where Paragraph 1.E., ''Compliance,'' of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, specifies a compliance time ''from receipt of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, specifies to contact Airbus for repair: Before further flight, repair the crack using a method approved by either

the Manager, International Branch, ANM–116; or EASA (or its delegated agent).

(3) Where Paragraph 1.E., ''Compliance,'' of Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010, specifies to contact Airbus for inspection intervals, this AD requires using an inspection interval approved by either the Manager, International Branch, ANM–116; or EASA (or its delegated agent).

(n) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraphs (k) and (l) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (n)(1)(i), (n)(1)(ii), or (n)(1)(iii) of this AD.

(i) Airbus Service Bulletin A310–57–2082, dated June 11, 2002.

(ii) Airbus Service Bulletin A310–57–2082, Revision 01, dated August 22, 2003, which is not incorporated by reference in this AD.

(iii) Airbus Mandatory Service Bulletin A310–57–2082, Revision 02, dated October 17, 2008, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the modification of the landing plate of the aileron access doors of the wing bottom skin panel No. 2 of the left and right wings required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (n)(2)(i) or (n)(2)(ii) of this AD (which is not incorporated by reference in this AD), except where this service information specifies contacting the manufacturer for disposition of certain repair conditions that might be associated with the modification procedure, this AD requires that the repair be done in accordance with a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(i) Airbus Service Bulletin A310–57–2081, Revision 01, dated February 26, 2003, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A310–57–2081, Revision 02, dated October 18, 2007, which is not incorporated by reference in this AD.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Previously Approved AMOCS:* AMOCs approved previously in accordance with AD 2004–15–07, Amendment 39–13741 (69 FR 44592, July 27, 2004), are approved as AMOCs for the corresponding provisions of this AD.

(p) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2011–0125, dated June 30, 2011, for related information.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the address specified in paragraphs (q)(5) and (q)(6) of this AD.

(q) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on September 20, 2013.

(i) Airbus Mandatory Service Bulletin A310–57–2082, Revision 03, dated November 15, 2010.

(ii) Airbus Repair Instruction R573–49237, Revision D, dated July 16, 2003.

(iii) Airbus Repair Instruction R573–49243, Revision C, dated July 16, 2003.

(iv) Airbus Service Bulletin A310–57–2081, Revision 03, dated October 13, 2010.

(4) The following service information was approved for IBR on August 31, 2004 (69 FR 44592, July 27, 2004).

(i) Airbus Service Bulletin A310–57–2081, dated June 11, 2002.

(ii) Airbus Service Bulletin A310–57–2082, dated June 11, 2002.

(5) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(6) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 22, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19862 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0291]

RIN 1625–AA09

Drawbridge Operation Regulation; Taunton River, Fall River and Somerset, MA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations that govern the operation of the Veterans Memorial Bridge across the Taunton River, mile 2.1, between Fall River and Somerset, Massachusetts. The bridge owner, Massachusetts Department of Transportation, submitted a request to reduce the hours the bridge is crewed based upon infrequent requests to open the draw. It is expected that this change to the regulations will provide relief to the bridge owner from crewing the bridge while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective September 16, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0291. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type in the docket number in the ''Search.'' Box and click ''SEARCH.'' Click Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. John W. McDonald, Project Officer, First Coast Guard District Bridge Branch, 617–223–8364, *john.w.mcdonald@uscg.mil.* If you have questions on viewing the docket, call

Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

On May 24, 2013, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulation: Taunton River, Fall River and Somerset, MA'' in the **Federal Register** (78 FR 31457). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The Veterans Memorial Bridge at mile 2.1, across the Taunton River between Somerset and Fall River, Massachusetts, has a vertical clearance of 60 feet at mean high water and 66 feet at mean low water. The horizontal clearance is 200 feet between the bridge protective fenders. The drawbridge operation regulations are listed at 33 CFR 117.5.

The waterway users are predominantly seasonal recreational vessels.

The Veterans Memorial Bridge is a double leaf bascule highway bridge opened to traffic in 2011, at mile 2.1, upstream from the existing Brightman Street Route 6 highway bridge at mile 1.8, across the Taunton River.

The owner of the bridge, Massachusetts Department of Transportation, submitted a request to the Coast Guard to change the drawbridge operating regulations that presently require the draw to be crewed twenty four hours a day and open on signal at all times.

Under this final rule the draw will open on signal between 7 a.m. and 3 p.m., and from 3 p.m. through 7 a.m. the draw would open on signal after at least a two hour advance notice is given by calling the number posted at the bridge. As explained in the NPRM, this decision was based on the few requests to open the bridge the past two years and the high vertical clearance.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This conclusion is based on the fact that this bridge will still open for all vessel traffic at all times provided the advance notice is given 3 p.m. to 7 a.m. by calling the number posted at the bridge.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit through the bridge.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons: The bridge will continue to open on signal from 7 a.m. to 3 p.m. and from 3 p.m. to 7 a.m. after a two hour advance notice is given. Additionally, the bridge has a vertical clearance of 60 feet at mean high water and 66 feet at mean low water which allows many vessels to pass through the bridge without a need for an opening.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule, if the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerns Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.619, add paragraph (f) to read as follows:

§ 117.619 Taunton River.

* * * * *

(f) The draw of the Veterans Memorial Bridge, mile 2.1, across the Taunton River between Fall River and Somerset, shall operate as follows:

(1) From 7 a.m. through 3 p.m. the draw shall open on signal.

(2) From 3 p.m. through 7 a.m. the draw shall open on signal provided a two hour advance notice is given by calling the number posted at the bridge.

Dated: July 29, 2013.

D.B. Abel,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2013–19980 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0684]

Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the draw of the Norfolk Southern #5 Railroad Bridge, across the Elizabeth River Eastern Branch, mile 1.1, at Norfolk, VA. This deviation is necessary to facilitate replacing the broken tread plates and shimming the remaining tread plates to the proper elevation on the Norfolk Southern #5 Railroad drawbridge. There are a total of 10 tread plates that need to be replaced. This temporary deviation allows the drawbridge to remain in the closed to navigation position.

DATES: This deviation is effective from 10 a.m. on August 19, 2013 to 6 p.m. August 30, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0684] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mrs. Kashanda Booker, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6227, email *Kashanda.l.booker@uscg.mil*. If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION: The Norfolk Southern Corporation, who owns and operates this drawbridge, has requested a temporary deviation from the current operating regulation set out in 33 CFR 117.5 to facilitate thermite welding on the rails.

Under the regular operating schedule, the Norfolk Southern #5 Railroad Bridge, mile 1.1, in Norfolk, VA, the draw must open promptly and fully for the passage of vessels when a request or signal to open is given. The draw normally is maintained in open-to-navigation position and only closes for train crossings or periodic maintenance. The Norfolk Southern #5 railroad Bridge, at mile 1.1, across the Elizabeth River (Eastern Branch) in Norfolk, VA, has a vertical clearance in the closed position to vessels of 6 feet above mean high water.

Under this temporary deviation, the drawbridge will be maintained in the closed to navigation position each day, from 10 a.m. to 6 p.m., on August 19, 2013 until August 30, 2013. At all other times, the drawbridge will operate under its normal operating schedule. The drawbridge normally is maintained in the open-to-navigation position with

several vessels transiting a week and only closes when trains transit. Emergency openings cannot be provided during the closure period. There are no alternate routes for vessels transiting this section on the Eastern Branch of the Elizabeth River; however, vessels requiring an opening may pass before 10 a.m. and after 6 p.m. Mariners able to pass under the bridge in the closed position may do so at any time and are advised to proceed with caution.

The Elizabeth River Eastern Branch is used by a variety of vessels including military, tugs, commercial, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with these waterway users. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 6, 2013.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013–19953 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0701]

RIN 1625–AA00

Safety Zone; Thunder on the Niagara, Niagara River, North Tonawanda, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Niagara River near North Tonawanda, NY. This safety zone is intended to restrict vessels from a portion of the Niagara River during the Thunder on the Niagara hydroplane race. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a hydroplane race.

DATES: This rule will be effective from 9:30 a.m. on August 17, 2013, until 5:30 p.m. August 18, 2013. This rule will be enforced from 9:30 a.m. until 5:30 p.m. on August 17 and 18, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0701]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9573, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a hydroplane race, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

Between 10 a.m. and 5 p.m. on August 17 and 18, 2013, a series of hydroplane races will take place on the Niagara River near North Tonawanda, NY. The Captain of the Port Buffalo has determined that hydroplane races create a significant risk to public safety and property. Such hazards include collisions between participants and the boating public.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone regulation is necessary to ensure the safety of spectators and vessels during the Thunder on the Niagara hydroplane race series. This safety zone regulation will be enforced from 9:30 a.m. until 5:30 p.m. on August 17 and 18, 2013. This zone will encompass all waters of the Niagara River, near North Tonawanda, NY within two miles of the Grand Island Bridge located within a zone described by the following positions: Beginning at 43°03′32.95″ N, 078°54′46.93″ W to 43°03′14.55″ N, 078°55′15.97″ W then to 43°02′39.72″ N,078°54′13.05″ W then to 43°02′59.99″ N, 078°53′41.99″ W and returning to the point of origin (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving

Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Niagara River during the daytime hours of August 17 and 18, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only 8 hours each day. Traffic may be allowed to pass around the zone in between the heats at idle speed with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and,

therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0701 to read as follows:

§ 165.T09–0701 Safety Zone; Thunder on the Niagara, Niagara River, North Tonawanda, NY.

(a) *Location.* This safety zone will encompass those waters of the Niagara River, near North Tonawanda, NY within two miles of the Grand Island Bridge, located within a zone described by the following positions: Beginning at 43°03′32.95″ N,078°54′46.93″ W to 43°03′14.55″ N,078°55′15.97″W then to 43°02′39.72″ N,078°54′13.05″ W then to 43°02′59.99″ N, 078°53′41.99″ W and returning to the point of origin (NAD 83).

(b) *Enforcement periods.* This section will be enforced on August 17 and 18, 2013, from 9:30 a.m. until 5:30 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: August 1, 2013.

B. W. Roche,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2013–19949 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0648]

RIN 1625–AA00

Safety Zone; D-Day Conneaut, Lake Erie, Conneaut, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie, Conneaut, OH. This safety zone is intended to restrict vessels from a portion of Lake Erie during the D-Day Conneaut event. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a historical re-enactment.

DATES: This rule will be effective from 3 p.m. August 16, 2013, to 5 p.m. August 17, 2013. On August 16, 2013, this rule will be enforced from 3 p.m. to 5 p.m. On August 17, 2013, this rule will be enforced from 2 p.m. to 5 p.m., or until all vintage U.S. fighter planes leave the area.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0648]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a historic re-enactment, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

From 4 p.m. to 4:30 p.m. on August 16, 2013, and from 3 p.m. to 4 p.m. on August 17, 2013, or until all vintage

U.S. fighter planes leave the area, there will be vintage U.S. fighter plane demonstrations and historic re-enactments of WWII landing craft on and over the Conneaut Township Park Lakefront area. This event will taking place over a portion of Lake Erie near Conneaut, OH. The Captain of the Port Buffalo has determined that the historic re-enactments combined with a high concentration of recreational vessels will create significant risk to public safety and property.

C. Discussion of the Temporary Final Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone regulation is necessary to ensure the safety of spectators and vessels during the D-Day Conneaut. On August 16, 2013, this regulation will be enforced from 3 p.m. to 5 p.m. On August 17, 2013, this regulation will be enforced from 2 p.m. to 5 p.m., or until all vintage U.S. fighter planes leave the area. The safety zone established by this rule covers waters of Lake Erie near Conneaut, OH encompasses by a line starting at position 41°57.71′ N and 080°34.18′ W, then to 41°58.36′ N and 080°34.17′ W, then to 41°58.53′ N and 080°33.55′ W, then to 41°58.03′ N and 080°33.72′ W and returning to the point of origin (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Lake Erie from 3 p.m. to 5 p.m. on August 16, 2013, and from 2 p.m. to 5 p.m. on August 17, 2013, or until all vintage U.S. fighter planes leave the area.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only few hours each day over two days. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0648 to read as follows:

§ 165.T09–0648 Safety Zone; D-Day Conneaut, Lake Erie, Conneaut, OH.

(a) *Location.* This zone will covers those waters of Lake Erie near Conneaut, OH encompassed by a line starting at position 41°57.71′ N and 080°34.18′ W, then to 41°58.36′ N and 080°34.17′ W, then to 41°58.53′ N and 080°33.55′ W, then to 41°58.03′ N and 080°33.72′ W and returning to the point of origin (NAD 83).

(b) *Enforcement periods.* This section will be enforced from 3 p.m. to 5 p.m. on August 16, 2013, and from 2 p.m. to 5 p.m. on August 17, 2013, or until all vintage U.S. fighter planes leave the area.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 29, 2013.

B. W. Roche,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2013–19979 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0394; FRL–9845–5]

Revisions to California State Implementation Plan, Antelope Valley Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Antelope Valley Air Quality Air Management District (AVAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act (CAA or the Act), we are rescinding local rules that concern sulfur oxide emissions from lead smelters for AVAQMD and volatile organic compounds (VOC) emissions from the data storage for VCAPCD and vacuum producing device industries for VCAPCD.

DATES: These rules are effective on October 15, 2013 without further notice, unless EPA receives adverse comments by September 16, 2013. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0394, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without

change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Robert Marinaro, EPA Region IX, (415) 972–3019, *marinaro.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rule rescissions we are approving with the dates that they were rescinded by the local air agencies and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted/ revised	Rescinded	Submitted
AVAQMD	1101	Secondary Lead Smelters/Sulfur Oxides (rescinded)	10/07/77	2/21/12	02/06/13
VCAPCD	37	Project XL (rescinded)	09/14/99	6/12/12	02/06/13
VCAPCD	67	Vacuum Producing Devices (rescinded)	07/05/83	6/12/12	02/06/13

On April 9, 2013, EPA determined that the submittal for AVAQMD Rule 1101, and VCAPCD Rules 37 and 67 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved versions of AVAQMD Rule 1101 into the SIP on September 2, 1981 (46 FR 43968), VCAPCD Rule 37 on December 13, 1999 (64 FR 69404), and VCAPCD Rule 67 on April 17, 1987 (52 FR 12522).

C. What is the purpose of the submitted rules?

Section 110(a) of the CAA requires States to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of the local agency's program to control these pollutants.

AVAQMD Rule 1101, Secondary Lead Smelters/Sulfur Oxides; VCAPCD Rule 37, Project XL; and VCAPCD Rule 67, Vacuum Producing Devices were originally adopted to help reduce these various air pollutants but are being rescinded because there are no longer any sources in the Districts subject to them and none are anticipated in the future.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

These rules describe requirements intended to help control emissions from lead smelters in AVAQMD, data storage in VCAPCD and vacuum producing devices in VCAPCD. These rule rescissions must not relax existing requirements consistent with CAA sections 110(l) and 193. EPA policy that we used to evaluate these rule revisions includes ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

B. Do the rules meet the evaluation criteria?

The Districts have requested rescission because they no longer have any sources subject to these rules, they do not expect any new sources in the future, and any new sources would be subject to restrictive NSR permitting requirements. The Districts have reviewed permit databases, emission inventories, and trade group contacts to determine that they have no sources, and we have reviewed their analysis and have no basis to question their analysis. Therefore, we believe these rule rescissions are consistent with relevant policy and guidance.

C. Public Comment and Final Action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule rescissions because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule rescissions. If we receive adverse comments by September 16, 2013, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 15, 2013. This will remove these rules from the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the

remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 15, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 26, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220, is amended by adding paragraphs (c)(70)(i)(B)(*1*), (c)(164)(i)(C)(*5*) and (c)(270)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(70) * * *

(i) * * *

(B) * * *

(*1*) Previously approved on September 2, 1981 in paragraph (c)(70)(i)(B) of this section and now deleted without replacement, for the Antelope Valley area only, Antelope Valley Rule 1101, previously South Coast Rule 1101. South Coast Rule 1101 remains in effect for the South Coast area.

* * * * *

(164) * * *

(i) * * *

(C) * * *

(*5*) Previously approved on April 17, 1987 in paragraph (c)(164)(i)(C)(*1*) of this section and now deleted without replacement, Ventura County Rule 67.

* * * * *

(270) * * *

(i) * * *

(A) * * *

(*2*) Previously approved on December 13, 1999 in paragraph (c)(270)(i)(A)(1) of this section and now deleted without replacement, Ventura County Rule 37.

* * * * *

[FR Doc. 2013–19872 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0384; FRL–9394–8]

Imazapic; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of imazapic in or on sugarcane, cane. BASF Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 16, 2013. Objections and

requests for hearings must be received on or before October 15, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0384, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0384 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 15, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0384, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 25, 2012 (77 FR 43562) (FRL–9353–6), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8021) by BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.490 be amended by establishing tolerances for residues of the herbicide imazapic 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid in or on sugarcane at 0.01 parts per million (ppm). That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed tolerance level and the commodity definition. EPA is also revising the tolerance expression to clarify the chemical moieties that are covered by the tolerances and specify how compliance will be measured. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for imazapic including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with imazapic follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as

the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Imazapic is categorized as having low acute toxicity by the oral, inhalation, and dermal routes of exposure. It is minimally irritating to the eye, non-irritating to the skin, and not a skin sensitizer.

No evidence of subchronic toxicity was observed to rodents via the oral or dermal routes. In the chronic oral toxicity study in dogs, minimal degeneration and/or necrosis of the skeletal muscle of the thigh and/or abdomen was seen at the lowest dose tested. At higher doses, additional effects were seen in the liver (increased absolute weights and changes in clinical chemical parameters), kidney (decreased urinary pH in females), and erythropoietic system (changes in hematological parameters, and microscopic changes in the bone marrow and spleen). At the high dose, there was also inflammation in the esophagus similar to that in skeletal muscle as well as discoloration of the lung in both sexes.

In the developmental toxicity study with rats, no maternal or developmental toxicity was seen at the limit dose. In the developmental toxicity study in rabbits, maternal effects of decreased body-weight gain and food consumption were observed at the dose level that did not result in developmental effects. In the 2-generation reproduction study in rats, no parental or reproductive toxicity was seen at the limit dose. In the battery of mutagenicity studies, no evidence of mutagenicity was observed.

Imazapic is classified as a ''Group E'' chemical (not likely to be a human carcinogen) by any relevant route of administration based on the absence of carcinogenicity seen in rodents.

Since the last risk assessment in 2001, acute neurotoxicity, subchronic neurotoxicity, and immunotoxicity studies were submitted in response to the 40 CFR part 158 data requirements. There was no evidence of immunotoxicity or neurotoxicity observed in the submitted studies.

In the 2001 risk assessment and in the **Federal Register** of December 26, 2001 (66 FR 66325) (FRL–6816–2), a 28-day inhalation toxicity study was required due to the potential for repeated handler inhalation exposure anticipated from use on pastures and rangeland. However, EPA concluded in the April 17, 2012 document ''Imazapic: Summary of Hazard and Science Policy Council (HASPOC) Meeting of March 15, 2012: Recommendations on the Requirement of a 28-day Inhalation Study'' that based on a weight-of-evidence approach, this study is not required at this time.

Specific information on the studies received and the nature of the adverse effects caused by imazapic as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document ''Imazapic. Human-Health Risk Assessment. Petition for Tolerances for Use on Soybeans and Sugarcane Without U.S. Registration,'' pp. 14–17 in docket ID number EPA–HQ–OPP–2012–0384.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for imazapic used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR IMAZAPIC FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children; and Females 13–50 years of age).	None	None	No acute dietary endpoint selected based on the absence of an appropriate endpoint attributed to a single dose.
Chronic dietary (All populations)	LOAEL = 137 mg/kg/day UF_A = 10X UF_H = 10X FQPA SF/UF_L = 10X	Chronic RfD = 0.137 mg/kg/day. cPAD = 0.137 mg/kg/day	One-Year Dog Feeding Study LOAEL = 137 mg/kg/day based on increased incidence of minimal degeneration and/or necrosis of skeletal muscle.

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to imazapic, EPA considered exposure under the petitioned-for tolerances as well as all existing imazapic tolerances in 40 CFR 180.490. EPA assessed dietary exposures from imazapic in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for imazapic; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA incorporated tolerance-level residues and 100 percent crop treated (PCT) for all commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that imazapic does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for imazapic. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for imazapic in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of imazapic. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the FQPA Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of imazapic for chronic exposures for non-cancer assessments are estimated to be 1.46 ppb for surface water and 13.73 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 13.73 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Imazapic is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found imazapic to share a common mechanism of toxicity with any other substances, and imazapic does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that imazapic does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence of increased pre- or postnatal susceptibility based on the results of the rat and rabbit prenatal developmental toxicity studies and the 2-generation reproductive toxicity study.

3. *Conclusion.* EPA is retaining the default 10X FQPA safety factor for all exposure scenarios due to the use of a LOAEL to extrapolate a NOAEL for the POD for the chronic dietary endpoint. That decision is based on the following findings:

i. Although all required toxicity studies have been submitted for imazapic, the chronic study used for chronic dietary risk assessment did not demonstrate a NOAEL, and a LOAEL was used as an endpoint. Therefore, EPA is retaining the 10X FQPA safety factor for use of a LOAEL to extrapolate a NOAEL.

ii. There is no indication that imazapic is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that imazapic results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The chronic dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to imazapic in drinking water. These assessments will not underestimate the exposure and risks posed by imazapic.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, imazapic is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to imazapic from

food and water will utilize 4% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for imazapic.

3. *Short- and intermediate-term risks.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no currently registered residential uses, no short- or intermediate-term aggregate risk assessments were conducted for imazapic.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, imazapic is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to imazapic residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Method SOP–PA.0288, a liquid chromatography with tandem mass spectroscopy (LC–MS/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for imazapic on sugarcane.

C. Revisions to Petitioned-For Tolerances

EPA revised the proposed commodity definition of ''sugarcane'' to reflect the correct terminology of ''sugarcane, cane'' and revised the proposed tolerance of 0.01 ppm to 0.03 ppm. All residues (parent plus metabolites) were below the limit of quantification (LOQ). The revised tolerance level is based upon the sum of the LOQs (0.01 + 0.01 + 0.01 = 0.03 ppm) for each of the three compounds in the tolerance expression. In accordance with Agency guidance on tolerance expressions, the tolerance expressions for imazapic are revised by clarifying that the tolerances cover ''residues of imazapic, including its metabolites and degradates''.

V. Conclusion

Therefore, tolerances are established for residues of imazapic, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid and its metabolites in or on sugarcane, cane at 0.03 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 7, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.490 as follows:
■ a. Revise the section heading;
■ b. Revise the introductory text in paragraph (a)(1) and add alphabetically the following commodity to the table;
■ c. Revise the introductory text in paragraph (a)(2); and
■ d. Revise the heading in paragraph (c).
The amendments read as follows:

§ 180.490 Imazapic; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the herbicide imazapic, including its metabolites and degradates, in or on the commodities listed in the following table. Compliance with the tolerance levels specified is to be determined by measuring the sum of imazapic (2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid) and its metabolites (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-hydroxymethyl-3-pyridinecarboxylic acid and (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(β-D-glucopyranosyloxy)methyl-3-pyridinecarboxylic acid, calculated as the stoichiometric equivalent of imazapic.

Commodity	Parts per million
* * * * *	
Sugarcane, cane	0.03

(2) Tolerances are established for residues of the herbicide imazapic, including its metabolites and degradates, in or on the commodities listed in the following table. Compliance with the tolerance levels specified is to be determined by measuring the sum of imazapic (2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid) and its metabolite (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-hydroxymethyl-3-pyridinecarboxylic acid, calculated as the stoichiometric equivalent of imazapic.

* * * * *

(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

[FR Doc. 2013–19867 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0405; FRL–9395–6]

Emamectin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of emamectin benzoate in or on wine grapes. Syngenta Crop Protection, LLC, requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA). This document also makes a technical correction to the tolerance expression in the section.

DATES: This regulation is effective August 16, 2013. Objections and requests for hearings must be received on or before October 15, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0405, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division, (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0405 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 15, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0405, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 22, 2012 (77 FR 50661) (FRL–9358–9) EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8018) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.505 be amended by establishing tolerances for residues of the insecticide emamectin benzoate (a benzoate salt mixture of a minimum of 90% 4′-epi-methylamino-4′- deoxyavermectin B_{1a} and a maximum of 10% 4′-epi-methylamino-4′-deoxyavermectin B_{1b}) resulting from the application of emamectin benzoate in or on imported wine at 0.005 parts per million (ppm). That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the requested tolerance to emamectin, including its metabolites and degradates, in or on grape, wine at 0.03 ppm. The reason for this change is explained in Unit IV.C.

This final rule also corrects a typographical error (one ''ZB'' missing) in the currently published tolerance expression for § 180.505(a)(2).

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for emamectin benzoate including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with emamectin benzoate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Emamectin acts by binding to gamma-aminobutyric acid (GABA) gated chloride channels at two different sites, a high affinity binding site that activates the channel and a low-affinity site that blocks the channel. GABA plays a critical role in nervous system development through both non-synaptic and synaptic mechanisms. Consequently, emamectin may have the potential to influence GABA-mediated events important to brain development. Within the mammalian brain, a member of this class of compound (abamectin) has been shown to have widespread binding but particularly abundant in the cerebellum. Through action on the enteric nervous system and induction of longitudinal rhythmic contractions in the isolated ileum, emamectin like abamectin may therefore influence GABA-mediated regulation of metabolism, food intake and body weight at multiple sites. Although GABA receptor mediated neurotoxicity is a solid hypothesis, data in mammalian preparations linking alterations in GABA receptor function to disruptions in neuronal excitability *in vitro* and *in vivo,* and ultimately adverse outcome are currently lacking.

Integral to its mechanism of action in mammals, this class of compounds is also a substrate for (i.e., binds to) P-glycoprotein (P-gp). P-glycoprotein is a member of the adenosine triphosphate (ATP) binding cassette transporter proteins, which reside in the plasma membrane and function as a transmembrane efflux pump, moving xenobiotics from intracellular to the extracellular domain against a steep concentration gradient with ATP-hydrolysis providing the energy for active transport. P-gp is found in the canallicular surface of hepatocytes, the apical surface of proximal tubular cells in the kidneys, brush border surface of enterocytes, luminal surface of blood capillaries of the brain (blood brain barrier), placenta, ovaries, and the testes. As an efflux transporter, P-gp acts as a protective barrier to keep xenobiotics out of the body by excreting them into bile, urine, and intestinal lumen and prevents accumulation of these compounds in the brain and gonads, as well as the fetus. Therefore, some test animals, in which genetic polymorphisms compromise P-gp expression, are particularly susceptible to abamectin or emamectin-induced neurotoxicity. An example is the CF–1 mouse. Some CF–1 mice are deficient in P-gp and are found to be highly sensitive to the neurotoxicity of abamectin. A small population of humans is also found to be deficient of ATP binding cassette (ABC) transporter proteins due to polymorphism in the gene encoding ABC transporter proteins (Dubin-Johnson Syndrome). In addition, collie dogs have been known to be deficient in P-gp.

Consistent with the mode of action, the main target organ for emamectin is the nervous system; clinical signs (tremors, ptosis, ataxia, and hunched posture) and neuropathology (neuronal degeneration in the brain and in peripheral nerves, muscle fiber degeneration) were found in most of the emamectin studies in rats, dogs, and mice. The dose/response curve was very steep in several studies (most notably with CF–1 mice and dogs), with severe effects (morbid sacrifice and neuropathology) sometimes seen at the lowest-observed-adverse-effect-levels (LOAELs) (0.1 milligram/kiolgram/day (mg/kg/day) with no-observed-adverse-effect-level (NOAEL) of 0.075 mg/kg/day). Although no increased sensitivity was seen in developmental toxicity studies in rats and rabbits, increased qualitative and/or quantitative sensitivity of rat pups was seen in the reproductive toxicity and in the developmental neurotoxicity studies.

The carcinogenicity and mutagenicity studies provide no indication that emamectin is carcinogenic or mutagenic. Emamectin is classified as ''not likely to be carcinogenic to humans.''

The available emamectin data show that there is a difference in species sensitivity, and the data suggest the following order: Rat NOAELs/LOAELs greater than dog NOAELs/LOAELs greater than mouse NOAELs/LOAELs. The toxicity endpoints and points of departure for risk were selected from the results of the 15-day CF–1 mouse oral toxicity study.

Specific information on the studies received and the nature of the adverse effects caused by emamectin benzoate as well as the NOAEL and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* on pp. 29–35 of the document entitled ''Emamectin Benzoate. Human Health Risk Assessment for a Proposed Tolerance on Imported Wine Grapes'' in docket ID number EPA–HQ–OPP–2012–0405.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for emamectin benzoate used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR EMAMECTIN BENZOATE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/ scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations).	NOAEL = 0.075 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 3x	Acute RfD = 0.00025 mg/kg/day aPAD = 0.00025 mg/kg/day.	15-day mouse study LOAEL = 0.1 mg/kg/day based on tremors on day 3 of dosing. At the next higher dose (0.3 mg/kg/day), tremors were seen at day 2 of treatment.
Chronic dietary (All populations).	NOAEL= 0.075 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 10x	Chronic RfD = 0.000075 mg/kg/day cPAD = 0.000075 mg/kg/day.	15-day mouse study LOAEL = 0.1 mg/kg/day based on moribund sacrifices, clinical signs of neurotoxicity, decreases in body weight and food consumption, and histopathological lesions in the sciatic nerve.

FQPA SF = Food Quality Protection Act Safety Factor. LOC = level of concern. LOAEL = lowest-observed-adverse-effect-level. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to emamectin benzoate, EPA considered exposure under the petitioned-for tolerances as well as all existing emamectin benzoate tolerances in 40 CFR 180.505. EPA assessed dietary exposures from emamectin benzoate in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for emamectin benzoate. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, a probabilistic acute dietary exposure assessment was conducted. The anticipated residue estimates, used for most crops, were based on field trial data. Tolerance-level residues were used for cottonseed oil, tree nuts (including pistachios), and wine. Pesticide Data Program (PDP) monitoring data for years 2009 and 2010 were used for apples since apple juice had a significant impact on exposure. The Dietary Exposure Evaluation Model (DEEM) default processing factors were used except for commodities with chemical-specific processing studies. Percent crop treated (PCT) data were used.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 NHANES/WWEIA. As to residue levels in food, a somewhat refined chronic dietary exposure assessment was conducted. The anticipated residue estimates, used for most crops, were single-point estimates (averages) based on field trial data. Tolerance-level residues were used for cottonseed oil, tree nuts (including pistachios), and wine. DEEM default processing factors were used except for commodities with chemical-specific processing studies. PCT data were used.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that emamectin benzoate does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the

levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

For the acute dietary assessment, the Agency estimated the maximum PCT for existing uses as follows: Almonds, 2.5%; apples, 20%; broccoli, 20%; cabbage, 25%; cauliflower, 20%; celery, 40%; cotton, 2.5%; lettuce, 20%; pears, 20%; peppers, 15%; spinach, 10%; and tomatoes, 20%.

For the chronic dietary assessment, the Agency estimated the PCT for existing uses as follows: Almonds, 1%; apples, 10%; broccoli, 5%; cabbage, 10%; cauliflower, 10%; celery, 25%; cotton, 1%; lettuce, 10%; pears, 5%; peppers, 5%; spinach, 5%; and tomatoes, 10%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

Also for the acute dietary assessment, the Agency used the following PCT estimates for the following recently approved uses: Cantaloupe, 51%; cucumber, 26%; squash, 46%; and watermelon, 21%. For the chronic dietary assessment, the Agency used the following PCT estimates for the following recently approved uses: Cantaloupe, 40%; cucumber, 14%; squash, 29%; and watermelon, 19%.

These PCT estimates for recently approved uses represent the upper bound of the use expected during the pesticide's initial 5 years of registration; that is, PCT for new uses of emamectin benzoate is a threshold of use that EPA is reasonably certain will not be exceeded for each registered use site. The PCT recommended for use in the chronic dietary assessment for new uses is calculated as the average PCT of the market leader or leaders, (i.e., the pesticide(s) with the greatest PCT) on that site over the 3 most recent years of available data. The PCT recommended for use in the acute dietary assessment for new uses is the maximum observed PCT over the same period. Comparisons are only made among pesticides of the same pesticide types (e.g., the market leader for insecticides on the use site is selected for comparison with a new insecticide). The market leader included in the estimation may not be the same for each year since different pesticides may dominate at different times.

Typically, EPA uses USDA/NASS as the source data because it is publicly available and directly reports values for PCT. When a specific use site is not reported by USDA/NASS, EPA uses proprietary data and calculates the PCT given reported data on acres treated and acres grown. If no data are available, EPA may extrapolate PCT for new uses from other crops, if the production area and pest spectrum are substantially similar.

A retrospective analysis to validate this approach shows few cases where the PCT for the market leaders were exceeded. Further review of these cases identified factors contributing to the exceptionally high use of a new pesticide. To evaluate whether the PCT for new uses for emamectin benzoate could be exceeded, EPA considered whether there may be unusually high pest pressure, as indicated in emergency exemption requests for emamectin benzoate; the pest spectrum of the new pesticide in comparison with the market leaders and whether the market leaders are well established for that use; and whether pest resistance issues with past market leaders provide emamectin benzoate with significant market potential. Given currently available information, EPA concludes that it is unlikely that actual PCT for emamectin benzoate will exceed the estimated PCT for new uses during the next 5 years.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which emamectin benzoate may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for emamectin benzoate in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of emamectin benzoate. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of emamectin benzoate for acute exposures are estimated to be between 0 and 0.465 parts per billion (ppb) for surface water and 0.00054 ppb for ground water, and for chronic exposures are estimated to be 0.150 ppb for surface water and 0.00054 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, a drinking water residue distribution based on the PRZM/EXAMS modeling was used. For chronic dietary risk assessment, the water concentration value of 0.150 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Emamectin benzoate is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

OPP's *Guidance for Identifying Pesticide Chemicals and Other Substances that have a Common Mechanism of Toxicity* (EPA, 1999) describes the weight of the evidence approach for determining whether or not a group of pesticides share a common mechanism of toxicity. This guidance defines mechanism of toxicity as the major steps leading to a toxic effect following interaction of a pesticide with biological targets. All steps leading to an effect do not need to be specifically understood. Rather, it is the identification of the crucial events following chemical interaction that are required in order to describe a mechanism of toxicity. For example, a mechanism of toxicity may be described by knowing the following: A chemical binds to a given biological target *in vitro,* and causes the receptor-related molecular response; *in vivo* it also leads to the molecular response and causes a number of intervening biological and morphological steps that result in an adverse effect. In this context a common mechanism of toxicity pertains to two or more pesticide chemicals or other substances that cause a common toxic effect to human health by the same, or essentially the same, sequence of major biochemical events. Hence, the underlying basis of the toxicity is the same, or essentially the same, for each chemical. In the case of the macrocyclic lactone pesticides (e.g., abamectin, emamectin, and avermectin), there is a wealth of data on the insecticidal mechanism of action for avermectin: Its insecticidal actions are mediated by interaction with the glutamate-gated chloride channels and $GABA_A$ gated chloride channels. This is presumed to be the insecticidal mechanism of action of emamectin and abamectin as well. Insecticidal mechanism of action does not indicate a common mechanism of toxicity for human health. Further, mammals lack glutamate-gated chloride channels; the toxic actions of avermectin appear to be mediated via interaction with $GABA_A$ and possibly glycine gated chloride channels. There is evidence that avermectin B_{1a} binds to $GABA_A$ receptors and activates Cl flux into neurons (Abalis et al., 1986; Huang and Casida, 1997). However, there is a paucity of data regarding the resultant alterations in cellular excitability of mammalian neurons and neural networks (i.e., changes in cellular excitability and altered network function as documented with pyrethroids), as well as *in vivo* measurements of altered excitability associated with adverse outcomes. Thus, while the downstream steps leading to toxicity via disruption of $GABA_A$ receptor function for avermectin can be postulated, experimental data supporting these actions are lacking. In addition, specific data demonstrating $GABA_A$ receptor interaction in mammalian preparations are lacking for abamectin and emamectin. Moreover, the specificity of such interaction on the adverse outcome would need to be shown experimentally. $GABA_A$ receptors have multiple binding sites which have been proposed to relate to adverse outcomes. For example, Dawson et al (2000) showed for a group of avermectin-like compounds that rank order for anticonvulsant activity did not parallel the rank order for affinity at the [3*H*]-ivermectin site. The authors hypothesized that these findings may be related to differential affinity or efficacy at subtypes of the $GABA_A$ receptor. Other reports have indicated species differences in abamectin effects on $GABA_A$ receptor function in the mouse as compared to the rat (Soderlund et al., 1987).

In conclusion, although $GABA_A$ receptor mediated neurotoxicity may be a common mechanism endpoint for the macrocyclic lactone pesticides, data demonstrating the interactions of emamectin and abamectin with mammalian $GABA_A$ receptors are not available, and data in mammalian preparations linking alterations in $GABA_A$ receptor function to disruptions in neuronal excitability *in vitro* and *in vivo,* and ultimately adverse outcome, are also currently lacking for this class of compounds. In the absence of such data, the key biological steps leading to the adverse outcome (i.e., the mammalian mechanism of action) cannot be established and by extension a common mechanism of toxicity (CMT) cannot be established.

For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Although no increased sensitivity was seen in developmental toxicity studies in rats and rabbits, increased qualitative and/or quantitative sensitivity of rat pups was seen in the reproductive toxicity study and in the developmental neurotoxicity study. In the reproduction study, whole body tremors, hind limb extension, and hind limb splay were seen in the F_1 and F_2 pups while these clinical signs were not seen in F_0 parental animals at similar dose levels. In addition, a greater incidence of decreased fertility was seen in the F_1 parental females than in the F_0 females. In the developmental neurotoxicity study, no maternal effect was seen at the highest dose tested whereas dose-related decrease in open-field motor activity was seen in the mid-dose in pups on postnatal day 17. Body tremors, hind-limb extension, and auditory startle were also found in the high-dose pups.

3. *Conclusion.* Based on currently available data, EPA is retaining the 10X FQPA SF for chronic assessments and is using a 3X FQPA SF for acute assessments. This decision is based on the following findings:

i. *Completeness of the toxicity database.* The toxicology database used to assess pre- and postnatal exposure to emamectin contains all required studies with exception of an immunotoxicity study and a subchronic inhalation toxicity study, which are data gaps.

The Agency evaluated subchronic, chronic, carcinogenicity, developmental, and reproduction studies as well as acute and subchronic neurotoxicity studies for any effects that might indicate that emamectin induced changes in the organs generally associated with immunological toxicity. In the studies evaluated, only the 14-week oral toxicity study in dogs showed an increase in the incidence of thymus atrophy at 1 mg/kg/day. In the 1-year feeding study in dog, thymus atrophy was not reported at similar dose levels tested. Currently, the point of departure for risk assessment is 0.075 mg/kg/day, which is more than 10 times less than the dose where thymus atrophy had been reported. Therefore, since the acute and chronic RfD's are 0.00025 mg/kg/day and 0.000075 mg/kg/day, respectively, the Agency does not believe an immunotoxicity study will result in a lower POD than that which is currently in use for overall risk assessment. As such, a database uncertainty factor is not necessary to account for the lack of an immunotoxicity study.

In regards to the inhalation toxicity study, there are currently no residential uses registered for emamectin benzoate, and therefore, lack of this study does not impact the Agency's assessment of pre- and postnatal exposure.

Another completeness issue with regard to the toxicity database is that EPA is using a short-term study for long-term risk assessment. The data submitted show that CF–1 mice, which lack P-gp, are the most sensitive species/strand of animal tested. EPA only has data on CF–1 mice in short-term studies. Longer-term studies used CD–1 mice. Hence a short-term study in CF–1 mice was used to choose the chronic POD. The extrapolation from a short-term study in CF–1 mice to a long-term POD introduces additional uncertainty into the risk assessment process.

ii. *Potential pre- and postnatal toxicity.* Although no increased sensitivity was seen in developmental toxicity studies in rats and rabbits, increased qualitative and/or quantitative sensitivity of rat pups was seen in the reproductive toxicity study and in the developmental neurotoxicity study. A degree-of-concern analysis was conducted to determine whether or not an additional safety factor is needed to account for the increased susceptibility in pups; it was concluded that the degree-of-concern was low for both 2-generation reproduction and developmental neurotoxicity studies. The reasons are as follows:

a. For the 2-generation reproduction study:

- There was a clear NOAEL for the offspring toxicity.
- The decreased fertility seen in F_1 adults might have been due to histopathological lesions in the brain and central nervous system (seen in both F_0 and F_1 generations), rather than due to a direct effect on the reproductive system.

b. For the developmental neurotoxicity study:

- Although multiple offspring effects (including decreased pup body weight, head and body tremors, hindlimb extension and splay, changes in motor activity and auditory startle) were seen at the highest dose, and no maternal effects were seen at any dose, there was a clear NOAEL for offspring toxicity at the low dose.
- The offspring LOAEL (at the mid dose) is based on a single effect seen on only 1 day (decreased motor activity on PND 17) and no other offspring toxicity was seen at the LOAEL.

Two other considerations raise residual concerns about whether the traditional safety factors are protective of potential pre- and postnatal toxicity. First, the steepness of the dose-response curve means that there is a small margin of error provided by reliance on the study NOAEL. Second, the severity of effects at the LOAEL (death and neuropathology), exacerbate the concern raised by the steep dose response curve.

iii. *The completeness of the exposure database.* The assessment for food incorporates somewhat refined anticipated residue estimates for most commodities that were derived from field trial data and PCT. The availability and use of monitoring data and food preparation-reduction factors for washing, cooking, etc., may have resulted in a more refined estimate of dietary exposure. Therefore, exposures to residues in food are not expected to be exceeded.

The dietary drinking water assessment utilizes water concentration values generated by model and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations which will not likely be exceeded.

Taking all of these findings into account, EPA has concluded that there are not reliable data supporting lowering of the default 10X FQPA SF for chronic exposures. Specifically, EPA does not have reliable data showing that infants and children will be adequately protected using the traditional inter- and intra-species safety factors due to the steepness of the dose-response curve, the severity of effects at the LOAEL (death and neuropathology), and the use of a short-term study for long-term risk assessment. The Agency did not use a chronic study for the point of departure because the chronic studies were conducted in rats, dogs, and CD–1 mice.

Taking all of these findings into account, for acute exposures, EPA has concluded that there are reliable data supporting lowering the default 10X FQPA SF to 3X. Although the steepness of the dose-response curve and the severity of the effects at the LOAEL introduce uncertainty with regard to whether the inter- and intra-species safety factors are protective of infants and children from acute effects, EPA has concluded that use of the 15-day neurotoxicity CF–1 mouse study provides reliable data to reduce the FQPA SF for acute assessments from 10X to 3X. The Agency determined that a 3X FQPA SF is adequate for assessing acute dietary risk based on the following weight of evidence considerations:

- An endpoint of concern attributable to a single exposure was not identified for *in utero* effects since there was no concern for developmental toxicity and there was no indication of increased susceptibility (qualitative or quantitative) of rat or rabbit fetuses to *in utero* exposure to emamectin.
- Although there was evidence of increased susceptibility in the developmental neurotoxicity (DNT) study, an endpoint of concern was not identified for acute dietary risk assessment for prenatal exposures because the adverse effect at the LOAEL (i.e., decrease in open-field motor activity) was seen only on postnatal day 17 and not seen after a single exposure.
- The POD selected for acute dietary risk assessment is a NOAEL (with a clear LOAEL) seen after repeated dosing but is used for assessing acute risk (i.e., a very conservative approach).

Therefore, the Agency is confident that the retention of a 3X FQPA SF (to account for the steepness of the dose response curve) will not underestimate risk and provides reasonable certainty of no harm from exposure to emamectin benzoate.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure

estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and drinking water to emamectin benzoate will occupy 91% of the aPAD for females 13–49 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to emamectin benzoate from food and water will utilize 16% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. There are no residential uses for emamectin benzoate.

3. *Short-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Both short- and intermediate-term adverse effects were identified; however, emamectin benzoate is not registered for any use patterns that would result in either short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- or intermediate-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for emamectin benzoate.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, emamectin benzoate is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to emamectin benzoate residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography with fluorescence detection (HPLC/FLD)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Harmonization issues regarding the tolerance expression are associated with this petition. There is a Codex MRL for grapes of 0.03 ppm. The Codex residue definition for the MRL and for the risk assessment is emamectin B_{1a} benzoate. The recommended U.S. tolerance is 0.03 ppm to harmonize with Codex but the U.S. residue definition includes additional analytes.

C. Revisions to Petitioned-For Tolerances

The difference in the proposed tolerance level of 0.005 ppm and the recommended tolerance level of 0.03 ppm is because EPA does not set tolerances on wine but rather on the raw commodity wine grapes. The recommended tolerance level reflects the harmonized residue values in the raw commodity as described in Unit IV.B.

EPA has revised the tolerance expression to clarify:

1. That, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of emamectin benzoate not specifically mentioned.

2. That compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, a tolerance is established for residues of emamectin, including its metabolites and degradates, in or on grape, wine at 0.03 ppm. Compliance with the tolerance levels specified is to be determined by measuring only the sum of emamectin (a mixture of a minimum of 90% 4′-epi-methylamino-4′-deoxyavermectin B_{1a} and maximum of 10% 4′-epi-methylamino-4′-deoxyavermectin B_{1b}) and its metabolites 8,9-isomer of the B_{1a} and B_{1b} component of the parent (8,9-ZMA), or 4′-deoxy-4′-epi-amino-avermectin B_{1a} and 4′-deoxy-4′-epi-amino-avermectin B_{1b}; 4′-deoxy-4′-epi-amino avermectin B_{1a} (AB_{1a}); 4′-deoxy-4′-epi-(*N*-formyl-*N*-methyl)amino-avermectin (MFB_{1a}); and 4′-deoxy-4′-epi-(*N*-formyl)amino-avermectin B_{1a} (FAB_{1a}), calculated as the stoichiometric equivalent of emamectin.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not

require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 7, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.505:

■ a. Add alphabetically the following commodity and footnote 1 to the table in paragraph (a)(1).

■ b. Revise the introductory text of paragraph (a)(2).

The amendments read as follows:

§ 180.505 Emamectin; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Grape, wine [1]	0.03
* * * * *	

[1] There are no U.S. registrations for use of emamectin on grape, wine.

(2) Tolerances are established for emamectin, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only the sum of emamectin (MAB_{1a} + MAB_{1b} isomers) and the associated 8,9-Z isomers (8,9-ZB_{1a} and 8,9-ZB_{1b}).

* * * * *

[FR Doc. 2013–19863 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9846–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Torch Lake Superfund Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency Region 5 is publishing a direct final Notice of Deletion of the Quincy Smelter and Calumet Lake parcels of Operable Unit 3 (OU3) of the Torch Lake Superfund Site (Site), located in Houghton County, Michigan, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface tailings and slag deposits of the Quincy Smelter and Calumet Lake parcels of OU3. The following parcels or areas will remain on the NPL and are not being considered for deletion as part of this action: Dollar Bay, Point Mills, Boston Pond, and North Entry.

DATES: This direct final partial deletion is effective October 15, 2013 unless EPA receives adverse comments by September 16, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov:* Follow online instructions for submitting comments.
- *Email:* Nefertiti DiCosmo, Remedial Project Manager, at *dicosmo.nefertiti@epa.gov* or Dave Novak, Community Involvement Coordinator, at *novak.dave@epa.gov.*
- *Fax:* Gladys Beard at (312) 697–2077.
- *Mail:* Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148 or Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–7478 or toll free at 1 (800) 621–8431.
- *Hand delivery:* Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency

(SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- Lake Linden/Hubbell Public Library, 601 Calumet Street, Lake Linden, MI 49945, Phone: (906) 296–6211, Summer Hours: Tuesday and Thursday, 6:00 p.m. to 8:00 p.m. EST; Wednesday, 9:00 a.m. to 2:00 p.m. EST, Winter Hours: Monday through Friday, 8:00 a.m. to 3:30 p.m. EST (when school is in session); Tuesday and Thursday, 3:30 p.m. to 8:30 p.m. EST
- Portage Lake District Library, 58 Huron Street, Houghton, MI 49931, Phone: (906) 482–4570, Hours: Monday through Thursday, 10:00 a.m. to 8:00 p.m. EST; Friday, 10:00 a.m. to 5:00 p.m. EST; and Saturday 10:00 a.m. to 3:00 p.m. EST

FOR FURTHER INFORMATION CONTACT: Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148, *dicosmo.nefertiti@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 5 is publishing this Direct Final Notice of Deletion of the Quincy Smelter and Calumet Lake parcels of Operable Unit (OU3) of the Torch Lake Superfund (Site) from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Torch Lake Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, (60 FR 55466) on November 1, 1995. As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective October 15, 2013 unless EPA receives adverse comments by September 16, 2013. Along with this Direct Final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the ''Proposed Rules'' section of the **Federal Register.** If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this Direct Final Notice of Partial Deletion before the effective date of the partial deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Quincy Smelter and Calumet Lake parcels of OU3 and demonstrates how the deletion criteria are met at these land parcels. Section V discusses EPA's action to partially delete the Site parcels from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is

deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Quincy Smelter and Calumet Lake parcels of OU3 of the Torch Lake Superfund Site:

(1) EPA consulted with the State of Michigan prior to developing this Direct Final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this direct final Notice of Partial Deletion and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the State, through MDEQ, has concurred on the partial deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in the Daily Mining Gazette Newspaper, located in Houghton, Michigan. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories.

(5) If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial Deletion before its effective date and will prepare a response to comments. EPA may continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Quincy Smelter and Calumet Lake parcels of OU3 from the NPL.

Site Background and History

The Torch Lake Superfund Site (CERCLIS ID MID980901946) is located on the Keweenaw Peninsula in Houghton County, Michigan. The Site includes Torch Lake, the northern portion of Portage Lake, and the northern entry of Torch Lake. In the process of selecting a remedy for the Torch Lake Site, the following areas were selected for remedial measures and thus became part of the Site: defined areas of stamp sands, tailing piles, and slag materials along the shore of and in the vicinity of Torch Lake, Northern Portage Lake, Keweenaw Waterway, Lake Superior, Boston Pond, Calumet Lake, Lake Linden, Hubbell/Tamarack City, Mason Sands, Calumet Lake, Michigan Smelter, Isle-Royale, Grosse-Point, and Quincy Smelter. More specifically, Calumet Lake is located in Calumet, Michigan, about five miles northwest of Torch Lake. Quincy Smelter is located along the Portage Canal in Hancock, Michigan. The Quincy Smelter clean up did not include the historic smelting facility, which was left as is out of historic preservation and community concerns. These properties, covering 600 acres, were not investigated at depth but were defined as part of the Torch Lake Superfund Site because of the surficial materials (stamp sands, tailings, and slag) and their relative locations to the Torch Lake water body. During the site investigation, samples were taken of the surface (0–6 inches) and shallow subsurface (0–3 feet) stamp sands, tailings, and slag piles at the frequency of approximately one composite sample per 20-acre parcel. Data generated reflected similar chemical characteristics in all samples collected. This data was sufficient to assume homogeneity of these materials and to support selection of the remedial action at the Site.

The remedial action included the installation of a soil vegetative cover over areas of stamp sands, tailings, and slag in order to meet the Remedial Action Objectives (RAOs). The remedial action only addressed surface materials associated with the covered land parcels. There may be non-site related contamination with depth or in the vicinity of these defined areas of stamp sands, tailings and slag that is not addressed by this remedial action. This potential contamination was not evaluated or addressed as part of the remedial measures for the Site. Non-site related contamination, if identified in the future, will not be addressed by a subsequent action as part of the remedial action.

Torch Lake was the site of copper milling and smelting facilities and operations for over 100 years. The Lake was a repository of milling wastes, and served as the waterway transportation to support the mining industry. The first of many mills opened on Torch Lake in 1868. At the mills, copper was extracted by crushing or stamping the rock into smaller pieces and driving them through successively smaller meshes. The copper and crushed rocks were separated by gravimetric sorting in a liquid medium. The copper was then sent to a smelter. The crushed rock particles, called tailings, were discarded along with mill processing water, typically by pumping them into the Lake.

Mining output, milling activity, and tailing production peaked in the Keweenaw Peninsula in the early 1900s to 1920. All of the mills at Torch Lake were located on the west shore of the Lake. Many other mining mills and smelters were located throughout the Keweenaw Peninsula. By around 1916, advances in technology allowed for the recovery of copper from tailings previously deposited in Torch Lake. Dredges were used to collect submerged tailings, which were then screened, recrushed, and gravity separated. An ammonia leaching process involving cupric ammonium carbonate was used to recover copper and other metals from conglomerate tailings. During the 1920s, chemical reagents were used to further increase the efficiency of reclamation. The chemical reagents included lime, pyridine oil, coal tar creosotes, wood creosote, pine oil, and xanthates. After reclamation activities were complete, chemically treated tailings were returned to the Lake. In the 1930s and 1940s, the Torch Lake mills operated mainly to recover tailings in Torch Lake. Copper mills were still active in the 1950s, but by the late 1960s copper milling had ceased.

Over 5 million tons of native copper was produced from the Keweenaw Peninsula and more than half of this was processed along the shores of Torch Lake. Between 1868 and 1968, approximately 200 million tons of tailings were dumped into Torch Lake, filling at least 20 percent of the Lake's original volume.

In June 1972, a discharge of 27,000 gallons of cupric ammonium carbonate leaching liquor occurred into the north end of Torch Lake from the storage vats at the Lake Linden Leaching Plant. The Michigan Water Resources Commission (MWRC) investigated the spill. The 1973 MWRC report discerned no deleterious effects associated with the spill, but did observe that discoloration of several acres of lake bottom indicated previous discharges.

In the 1970s, environmental concern developed regarding the century-long deposition of tailings into Torch Lake. High concentrations of copper and other heavy metals in sediments, toxic discharges into the Lake, and fish abnormalities prompted many investigations into long and short-term impacts attributed to mine waste disposal. The International Joint Commission's Water Quality Board designated the Torch Lake basin as a Great Lakes Area of Concern (AOC) in 1983. Also in 1983, the Michigan Department of Public Health announced an advisory against the consumption of Torch Lake sauger and walleye fish due to tumors of unknown origin.

The Torch Lake Superfund Site was proposed for inclusion on the NPL in October 1984 (49 FR 40320). The Site was placed on the NPL in June 1986 (51 FR 21054). The Site is also on the list of sites identified under Michigan's Natural Resources and Environmental Protection Act 451 Part 201.

Remedial Investigation and Feasibility Study (RI/FS)

On May 9, 1988 Notice Letters were issued to Universal Oil Products (UOP) and Quincy Mining Company to perform an RI/FS. UOP is the successor corporation of Calumet Hecla Mining Company, which operated its milling and smelting on the shore of Torch Lake and disposed of the generated tailings near the City of Lake Linden. On June 13, 1988, a Notice Letter was to perform the RI/FS was also issued to Quincy Development Company, which was the current owner of a tailing pile located on the lake shore of Mason City. Negotiations for the RI/FS Consent Order with these Potentially Responsible Parties (PRPs) were not successful due to issues such as the extent of the Site and the number of PRPs.

During the week of May 8, 1989 EPA conducted ground penetrating radar and a sub bottom profile (seismic) survey of the bottom of Torch Lake. The area in which this survey was conducted is immediately off-shore from the Old Calumet and Hecla Smelting Mill Site. The survey located several point targets (possibly drums) on the bottom of Torch Lake. On June 21, 1989 EPA collected a total of eight samples from drums located in the Old Calumet and Hecla Smelting Mill Site near Lake Linden, the Ahmeek Mill Site near Hubbell City, and the Quincy Smelter Site near Mason City. On August 1, 1990 nine more samples were collected from drums located near Tamarack City. Based on the results of this sampling, EPA determined that some of these drums may have contained hazardous substances.

Due to the size and complex nature of the Site, three operable units (OUs) were defined for the Site. Operable Unit 1 includes approximately 500 acres of surface tailings, drums, and slag piles on the western shore of Torch Lake. These areas include the Hubbell/Tamarack City, Lake Linden, and Mason Sands parcels. Operable Unit 2 includes groundwater, surface water, submerged tailings, and sediments in Torch Lake, Portage Lake, the Portage Channel, and other surface water bodies at the Site. Operable Unit 3 includes tailings and slag deposits located at the North Entry of Lake Superior, Michigan Smelter, Quincy Smelter, Calumet Lake, Isle-Royale, Boston Pond, and Grosse-Point (Point Mills/Dollar Bay). Remedial Investigations (RIs) have been completed for all three operable units. The RI for OU1 and OU3 only investigated the surface (0–6 inches) and shallow subsurface (0–3 feet) stamp sands.

Also, the RI assumed that the stamp sands were homogenous, i.e., the stamp sands had similar characteristics wherever they were located. The sampling performed to characterize the OU1 and OU3 tailings was adequate to select the remedial action based on the homogeneity of the parameters measured, the distribution of contaminant compounds, and the relatively low levels of contaminants found. While hot spot contamination may exist, it is not attributable to tailings composition, and could not be reliably located or predicted using any reasonable sampling program. The RI and Baseline Risk Assessment (BRA) reports for OU1 were finalized in July 1991. The RI and BRA reports for OU3 were finalized on February 7, 1992.

Record of Decision (ROD) Findings

The ROD for OU1 and OU3 was signed on September 30, 1992, and the ROD for OU2 was signed on March 31, 1994.

ROD for OU1 and OU3 (September 30, 1992)

The selected remedial action for the various tailings areas was a soil and vegetative cover and institutional controls. The cover prevents erosion from surface water runoff and wind of contaminants to the impaired sediment. The cover also helps prevent the further degradation of Torch Lake's ecosystem, allowing the Lake to recover over time. The RAOs for OU1 and OU3 were developed as a result of data collected during the RI and included activities to reduce or minimize the exposure to and release of contaminants in tailings and/or slag located at the Site. These activities included:

1. Reducing or minimizing potential risks to human health associated with the inhalation of airborne contaminants from the tailings and/or slag located at the Site;

2. Reducing or minimizing potential risks to human health associated with direct contact with and/or the ingestion of the tailings and/or the slag located at the Site;

3. Reducing or minimizing the release of contaminants in tailings to the groundwater through leaching; and

4. Reducing or minimizing the release of contaminants in tailings to the surface water and sediment by soil erosion and/or air deposition.

All of the RAOs for the Torch Lake parcels in this deletion package have been met with the successful implementation of a vegetative cover over the stamp sands, tailing piles, and slag materials over the various tailings areas. The vegetative soil cover reduces airborne and direct contact exposure to the contaminants in the stamp sands, tailings, and slag. The affected groundwater is part of OU2, for which the selected remedy was no action, and OU2 was deleted from the NPL in 2002. Since the selected remedy for groundwater was no action, it is not imperative that the OU1 and OU3 remedy achieve the third RAO. The vegetative soil cover serves to stabilize the stamp sands, tailings, and slag underneath and reduce the erosion of these materials and their associated contaminants to the surface water and sediment. The selected remedy for OU1 and OU3 has the following specific components:

1. Deed restrictions to control the use of tailing piles so that tailings will not be left in a condition which is contrary to the intent of the remedy;

2. Removal of debris such as wood, empty drums, and other garbage in the tailing piles for off-site disposal in order to effectively implement the soil cover with vegetation;

3. Soil cover with vegetation in the following areas:

- Operable Unit 1 tailings in Hubbell/Tamarack City, Lake Linden, and Mason Sands (approximately 442 acres);
- Operable Unit 1 slag pile in Hubbell (approximately 9 acres); and
- Operable Unit 3 tailings in Calumet Lake, Boston Pond, Michigan Smelter, and Grosse-Point (Point Mills/Dollar Bay) (approximately 229 acres)

4. Assuming that the slag pile located in the Quincy Smelter area (approximately 25 acres) will be developed as part of a national park, no action was taken. If this area is not developed as a national park in the future, deed restrictions will be sought to prevent the development of residences in the slag pile area;

5. North Entry, Redridge and Freda tailings are excluded from the area to be covered with soil and vegetation (and are not currently being proposed for deletion here). North Entry, Redridge, and Freda are along the Lake Superior shore where pounding waves and water currents will likely retard or destroy any remedial actions. As a result, EPA currently believes it to be technically impracticable to implement the chosen remedy at these locations.

ROD Amendment for OU1 and OU3 (July 2009)

The amended remedy was developed because of information that had been collected and analyzed since the 1992 ROD. The 1992 ROD for OU1 and OU3 determined that no action should be taken at Quincy Smelter, as it was slated for development as a national park. The 1992 ROD stipulated that if this area were not developed as a national park in the future, deed restrictions would be implemented to prevent residential development in the historic slag pile area. The data presented in the Second Five-Year Review Report, signed on March 27, 2008, showed that no development had occurred to date and that the stamp sands and slag at the Site continued to erode into the Portage Channel, degrading the environment and weakening the integrity and protectiveness of the overall remedy.

Based upon this information, EPA determined that it was appropriate to modify the remedy selected in the 1992 ROD. A ROD amendment, signed in July 2009, selected a soil and vegetative cover at Quincy Smelter, consistent with other stamp sand areas in OU3, to minimize erosion and aerial deposition of the stamp sands. Institutional controls (ICs) were also implemented to protect the long-term integrity of the cover materials and minimize direct contact with the stamp sands and slag piles. The area addressed with vegetative cover encompasses about 6.5 acres which are situated outside of the currently fenced buildings and structures.

Remedial Design (RD)

In August 1994, an Interagency Agreement (IAG) was signed with the United States Department of Agriculture (USDA)-Natural Resources Conservation Service (NRCS) to perform RD work. The RD was conducted in conformance with the 1992 ROD and was completed for the entire Site in September 1998. At that time, the IAG with USDA–NRCS was amended to perform remedial action (RA) management and oversight. The September 1998 IAG was funded with $13.8 million, and the Michigan Department of Environmental Quality (MDEQ) provided a $1.52 million match for the RA work. The construction schedule was set at six years (1999–2004). It was estimated in the 1992 ROD that remedy implementation time would be five years. Other factors that influenced the construction schedule included the restricted availability of USDA–NRCS engineers and the relatively short construction season due to the northerly location of the Site.

Construction Activities

On-site construction began in June 1999 and was completed in September 2005. A Preliminary Close-Out Report documenting construction completion was signed on September 23, 2005.

OU1

In April 2002, EPA and MDEQ determined that the remedy was functioning as intended, and a partial NPL deletion of the Lake Linden parcel, in addition to all of OU2, was finalized. The Hubbell/Tamarack City parcels were deleted from the NPL via a partial deletion in 2004.

OU2

No remedial work was required as part of the OU2 No Action ROD. Thus, there were no construction activities for this OU. EPA deleted OU2 in the April 2002 partial NPL deletion.

OU3

Construction activities at Calumet Lake were completed in late October 2003. Shoreline protection, including rip-rap rock, was also installed along much of the shoreline where the remedy was implemented. The rip-rap rock (boulders averaging about one-foot in diameter with a specified density and integrity) protects the remedy from wave erosion.

RA construction activities were performed at Calumet Lake in accordance with approved the design and specifications. It is anticipated that the cover material and shoreline protection installed at the Site will continue to meet the RAOs established for the Site.

The Quincy Smelter portion of the Site was originally excluded from the vegetative soil cover remedy in the 1992 ROD for OU1 and OU3, as described previously, assuming that the on-site slag pile would be developed as part of the Keweenaw National Historical Park. The 1992 ROD further stated that if this area was not developed as a national park, deed restrictions would be sought to prevent residential development in the slag pile area.

In July 2005, EPA removed asbestos from two buildings at Quincy Smelter as part of a time-critical removal action. In August and September 2005, EPA installed rip-rap along the shoreline and a water diversion system to prevent storm water from running directly into the Keweenaw Waterway. A fence was also constructed around the buildings. On September 13, 2005, EPA inspected the rip-rap and storm water culvert and found it to be in compliance with all design specifications.

In July 2006, the Keweenaw National Historical Park observed and notified EPA of continued erosion along the shoreline. During a site inspection in June 2007, EPA and MDEQ documented the level of continuing erosion at the Quincy Smelter, as well as the continued deterioration of buildings. EPA discussed the need for further actions at the property and possible solutions with the National Park Service, Franklin Township, and other stakeholders. As a result of these communications, EPA conducted a removal action at Quincy Smelter in 2008 to stabilize area conditions.

A ROD amendment was signed on July 31, 2009 selecting a vegetative cover for the stamp sands on the Quincy Smelter portion of the site. The 1992 ROD selected no action for the Quincy Smelter area because there were plans to develop the area as a national park. A national park was not developed by 2009, and no ICs were implemented for that area. As a result, EPA determined that additional remedial action at Quincy Smelter was necessary. The ROD amendment required the implementation of the same vegetative cover at Quincy Smelter as the rest of the site. This included placing an earthen cover over the stamp sands, debris removal, seeding and mulching, lined channel/shoreline/slope protection, access road construction,

and installation of a fence and metal gates to secure the site.

Institutional Controls (ICs)

In 1994, EPA issued an Administrative Order on Consent (AOC) to all affected landowners requiring them, within six months of the AOC, to implement the appropriate deed restrictions on their property. The deed restrictions run with the land and bind future owners to the restrictions. These ICs serve to protect vegetative cover and thus prevent residual mining contamination from entering surface water by ensuring that no disturbance of vegetative cover occurs. If disturbance occurs, the owner is required to replace soil and repair vegetative cover. There are restrictive covenants in place on approximately half of the properties at the Torch Lake Superfund Site. The ICs for the parcels proposed for deletion, Quincy Smelter and Calumet Lake, are in place and effective. The following restriction applies at these parcels: if during the process of any development, building, construction, or other activity on the property by or with consent from the owner of the property, the cover is disturbed so that upon completion of the development, construction, building or other activity on the property by or with consent of the owner of the property stamp sand is exposed, then the owner of the property shall cover the exposed stamp sand and shall re-vegetate the re-covered area.

Cleanup Goals

The objectives of the remedies were to control exposures to Site contaminants and control erosion of stamp sands, tailings, and slag to the surface water and sediments by covering with vegetation. The remedial actions at Quincy Smelter and Calumet Lake are operational and functional. The remedial actions are functioning properly and performing as designed.

Operation and Maintenance (O&M)

EPA conducted activities necessary to ensure that the implemented remedy at Quincy Smelter and Calumet Lake was operational and functional for a period of three years after the remedial construction at the last parcel. The remedy was jointly determined by EPA and MDEQ to be functioning properly and performing as designed in September 2008. EPA conducted annual observations of the remediated areas for three years after construction, and conducted major repairs, as necessary, on each area where the remedy was implemented.

MDEQ will be conducting O&M of the shoreline protection and cover material. In accordance with the September 1998 Superfund Site Contract signed by EPA and MDEQ, O&M was to begin three years after the remedy implementation or when the remedy was jointly determined by EPA and MDEQ to be functioning properly as designed, whichever is earlier. This milestone was reached in September 2008 for Calumet Lake and Quincy Smelter, along with several other Torch Lake property parcels. EPA has conducted sampling since then and has been working with the State to finalize a revised O&M plan to fit the new estimated recovery time for the sediment. MDEQ will be conducting the O&M at Quincy Smelter and Calumet Lake.

Five-Year Review (FYR)

EPA conducted its most recent FYR at the Site in March 2013. The 2013 FYR noted that the remedy at OU3, which includes Quincy Smelter and Calumet Lake, is protective of human health and the environment in the short-term. This FYR calls for continued documentation from landowners at the Site to verify proper deed and permitting restrictions are in place on wells screened in the stamp sands on other parcels of OU1 and OU3. Additionally, a lack of vegetative cover exists on certain properties of Point Mills. There is also a recommendation to work with the Houghton County Road Commission to ensure that road traction tailings excavation practices at Point Mills are consistent with the 1992 ROD. However, the parcels proposed for this deletion did not have any issues affecting protectiveness.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket, which EPA relied on for recommendation of the partial deletion of this Site from the NPL, are available to the public in the information repositories and at *www.regulations.gov*. Documents in the docket include maps which identify the specific parcels of land that are proposed in this Notice (Quincy Smelter and Calumet Lake).

Determination That the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that portions of a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Michigan, has determined that no further action is appropriate.

V. Deletion Action

EPA, with concurrence of the State of Michigan through MDEQ, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. Therefore, EPA is deleting the Quincy Smelter and Calumet Lake parcels of OU3 of the Torch Lake Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective October 15, 2013 unless EPA receives adverse comments by September 16, 2013. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 25, 2013.

Susan Hedman,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended under Michigan ''MI'' by revising the entry for '' Torch Lake'', ''Houghton County, Michigan''.

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes [a]
*	*	*	*
MI	Torch Lake	Houghton	P
*	*	*	*

[a] * * *

* P = Sites with partial deletion(s).

[FR Doc. 2013–19759 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3000

[L13100000 PP0000 LLWO310000; L1990000 PO0000 LLWO320000]

RIN 1004–AE32

Minerals Management: Adjustment of Cost Recovery Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the Bureau of Land Management (BLM) mineral resources regulations to update some fees that cover the BLM's cost of processing certain documents relating to its minerals programs and some filing fees for mineral-related documents. These updated fees include those for actions such as lease renewals and mineral patent adjudications.

DATES: This final rule is effective October 1, 2013.

ADDRESSES: You may send inquiries or suggestions to Director (630), Bureau of Land Management, 2134LM, 1849 C Street NW., Washington, DC 20240; Attention: RIN 1004–AE32.

FOR FURTHER INFORMATION CONTACT: Steven Wells, Chief, Division of Fluid Minerals, 202–912–7143, Mitchell Leverette, Chief, Division of Solid Minerals, 202–912–7113; or Faith Bremner, Regulatory Affairs Analyst, 202–912–7441. Persons who use a telecommunications device for the deaf (TDD) may leave a message for these individuals with the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM has specific authority to charge fees for processing applications and other documents relating to public lands under Section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734. In 2005, the BLM published a final cost recovery rule (70 FR 58854) establishing or revising certain fees and service charges, and establishing the method it would use to adjust those fees and service charges on an annual basis.

At 43 CFR 3000.12(a), the regulations provide that the BLM will annually adjust fees established in Subchapter C according to changes in the Implicit Price Deflator for Gross Domestic Product (IPD–GDP), which is published quarterly by the U.S. Department of Commerce. See also 43 CFR 3000.10. This final rule will allow the BLM to update these fees and service charges by October 1 of this year, as required by the 2005 regulation. The fee recalculations are based on a mathematical formula. The public had an opportunity to comment on this procedure during the comment period on the original cost recovery rule, and this new rule simply administers the procedure set forth in those regulations. Therefore, the BLM has changed the fees in this final rule without providing opportunity for additional notice and comment. The Department of the Interior, therefore, for good cause finds under 5 U.S.C. 553(b)(B) and (d)(3) that notice and public comment procedures are unnecessary.

II. Discussion of Final Rule

The BLM publishes a fee update rule each year, which becomes effective on October 1 of that year. The fee updates are based on the change in the IPD–GDP from the 4th Quarter of one calendar year to the 4th Quarter of the following calendar year. This fee update rule is based on the change in the IPD–GDP from the 4th Quarter of 2011 to the 4th Quarter of 2012, thus reflecting the rate of inflation over four calendar quarters.

The fee is calculated by applying the IPD–GDP to the base value from the previous year's rule, also known as the ''existing value.'' This calculation results in an updated base value. The updated base value is then rounded to the closest multiple of $5, or to the nearest cent for fees under $1, to establish the new fee.

Under this rule, 30 fees will remain the same and 18 fees will increase. Nine of the fee increases will amount to $5 each. The largest increase, $55, will be applied to the fee for adjudicating a mineral patent application containing more than 10 claims, which will increase from $2,940 to $2,995. The fee for adjudicating a patent application containing 10 or fewer claims will increase by $25—from $1,470 to $1,495.

In this rule, we will correct the title given in the table for 43 CFR part 3730. The title used in prior rules, ''Multiple Use, Mining,'' is actually the title for Group 3700, the group of regulations that includes part 3730. The specific title for part 3730, in which the fee for a notice of protest of placer mining operations is found at 43 CFR 3736.2(b), is ''Public Law 359; Mining in Powersite Withdrawals: General.'' This is a technical revision that has no substantive effect.

The calculations that resulted in the new fees are included in the table below:

FIXED COST RECOVERY FEES FY14

Document/Action	Existing fee [1]	Existing value [2]	IPD–GDP Increase [3]	New value [4]	New fee [5]
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)					
Noncompetitive lease application	$ 390	$ 390.65	$ 7.19	$ 397.84	$ 400
Competitive lease application	150	151.60	2.79	154.39	155
Assignment and transfer of record title or operating rights	85	87.46	1.61	89.07	90
Overriding royalty transfer, payment out of production	10	11.66	0.21	11.87	10
Name change, corporate merger or transfer to heir/devisee	205	204.06	3.75	207.81	210
Lease consolidation	430	431.46	7.94	439.40	440
Lease renewal or exchange	390	390.65	7.19	397.84	400
Lease reinstatement, Class I	75	75.79	1.39	77.18	75
Leasing under right-of-way	390	390.65	7.19	397.84	400
Geophysical exploration permit application—Alaska	25				[6] 25
Renewal of exploration permit—Alaska	25				[7] 25
Geothermal (part 3200)					
Noncompetitive lease application	390	390.65	7.19	397.84	400
Competitive lease application	150	151.60	2.79	154.39	155
Assignment and transfer of record title or operating rights	85	87.46	1.61	89.07	90
Name change, corporate merger or transfer to heir/devisee	205	204.06	3.75	207.81	210
Lease consolidation	430	431.46	7.94	439.40	440
Lease reinstatement	75	75.79	1.39	77.18	75
Nomination of lands:	110	109.15	2.01	111.16	110
plus per acre nomination fee	0.11	0.10915	0.00201	0.11116	0.11
Site license application	60	58.30	1.07	59.37	60
Assignment or transfer of site license	60	58.30	1.07	59.37	60
Coal (parts 3400, 3470)					
License to mine application	10	11.66	0.21	11.87	10
Exploration license application	320	320.68	5.90	326.58	325
Lease or lease interest transfer	65	64.15	1.18	65.33	65
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)					
Applications other than those listed below	35	34.99	0.64	35.63	35
Prospecting permit application amendment	65	64.15	1.18	65.33	65
Extension of prospecting permit	105	104.95	1.93	106.88	105
Lease modification or fringe acreage lease	30	29.16	0.54	29.70	30
Lease renewal	500	501.44	9.23	510.67	510
Assignment, sublease, or transfer of operating rights	30	29.16	0.54	29.70	30
Transfer of overriding royalty	30	29.16	0.54	29.70	30
Use permit	30	29.16	0.54	29.70	30
Shasta and Trinity hardrock mineral lease	30	29.16	0.54	29.70	30
Renewal of existing sand and gravel lease in Nevada	30	29.16	0.54	29.70	30
Public Law 359; Mining in Powersite Withdrawals: General (part 3730)					
Notice of protest of placer mining operations	10	11.66	0.21	11.87	10
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)					
Application to open lands to location	10	11.66	0.21	11.87	10
Notice of location	15	17.48	0.32	17.80	20
Amendment of location	10	11.66	0.21	11.87	10
Transfer of mining claim/site	10	11.66	0.21	11.87	10
Recording an annual FLPMA filing	10	11.66	0.21	11.87	10
Deferment of assessment work	105	104.95	1.93	106.88	105
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30	29.16	0.54	29.70	30
Mineral patent adjudication:					
(more than 10 claims)	2,940	2,938.65	54.07	2,992.72	2,995
(10 or fewer claims)	1,470	1,469.31	27.04	1,496.35	1,495
Adverse claim	105	104.95	1.93	106.88	105
Protest	65	64.15	1.18	65.33	65

FIXED COST RECOVERY FEES FY14—Continued

Document/Action	Existing fee [1]	Existing value [2]	IPD–GDP Increase [3]	New value [4]	New fee [5]
Oil Shale Management (parts 3900, 3910, 3930)					
Exploration license application	310	307.58	5.66	313.24	315
Application for assignment or sublease of record title or overriding royalty	65	62.56	1.15	63.71	65

[1] The Existing Fee was established by the 2012 (Fiscal Year 2013) cost recovery fee update rule published September 10, 2012 (77 FR 55420), effective October 1, 2012.

[2] The Existing Value is the figure from the New Value column in the previous year's rule.

[3] From 4th Quarter 2011 to 4th Quarter 2012, the IPD–GDP increased by 1.84 percent. The value in the IPD–GDP Increase column is 1.84 percent of the Existing Value.

[4] The sum of the Existing Value and the IPD–GDP Increase is the New Value.

[5] The New Fee for Fiscal Year 2014 is the New Value rounded to the nearest $5 for values equal to or greater than $1, or to the nearest penny for values under $1.

[6] Section 365 of the Energy Policy Act of 2005 (Pub. L. 109–58) directed in subsection (i) that ''the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations.'' In the 2005 cost recovery rule, the BLM interpreted this prohibition to apply to geophysical exploration permits. 70 FR 58854—58855. While the $25 fees for geophysical exploration permit applications for Alaska and renewals of exploration permits for Alaska pre-dated the 2005 cost recovery rule and were not affected by the Energy Policy Act prohibition, the BLM interprets the Energy Policy Act provision as prohibiting it from increasing this $25 fee.

[7] The BLM interprets the Energy Policy Act prohibition discussed in footnote 6, above, as prohibiting it from increasing this $25 fee, as well.

Source for Implicit Price Deflator for Gross Domestic Product data: U.S. Department of Commerce, Bureau of Economic Analysis (April 26, 2013).

III. How Fees Are Adjusted

Each year, the figures in the Existing Value column in the table above (not those in the Existing Fee column) are used as the basis for calculating the adjustment to these fees. The Existing Value is the figure from the New Value column in the previous year's rule. In the case of fees that were not in the table the previous year, or that had no figure in the New Value column the previous year, the Existing Value is the same as the Existing Fee. Because the new fees are derived from the new values—rounded to the nearest $5 or the nearest penny for fees under $1—adjustments based on the figures in the Existing Fee column would lead to significantly over- or under-valued fees over time. Accordingly, fee adjustments are made by multiplying the annual change in the IPD–GDP by the figure in the Existing Value column. This calculation defines the New Value for this year, which is then rounded to the nearest $5 or the nearest penny for fees under $1, to establish the New Fee.

IV. Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

The BLM has determined that the rule will not have an annual effect on the economy of $100 million or more. It will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The changes in today's rule are much smaller than those in the 2005 final rule, which did not approach the threshold in Executive Order 12866. For instructions on how to view a copy of the analysis prepared in conjunction with the 2005 final rule, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above.

This rule will not create inconsistencies or otherwise interfere with an action taken or planned by another agency. This rule does not change the relationships of the onshore minerals programs with other agencies' actions. These relationships are included in agreements and memoranda of understanding that would not change with this rule.

In addition, this final rule does not materially affect the budgetary impact of entitlements, grants, or loan programs, or the rights and obligations of their recipients. This rule applies an inflation factor that increases some existing user fees for processing documents associated with the onshore minerals programs. However, most of these fee increases are less than 3 percent and none of the increases materially affect the budgetary impact of user fees.

Finally, this rule will not raise novel legal issues. As explained above, this rule simply implements an annual process to account for inflation that was adopted by and explained in the 2005 cost recovery rule.

The Regulatory Flexibility Act

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. For the purposes of this section, a small entity is defined by the Small Business Administration (SBA) for mining (broadly inclusive of metal mining, coal mining, oil and gas extraction, and the mining and quarrying of nonmetallic minerals) as an individual, limited partnership, or small company considered to be at arm's length from the control of any parent companies, with fewer than 500 employees. The SBA defines a small entity differently, however, for leasing Federal land for coal mining. A coal lessee is a small entity if it employs not more than 250 people, including people working for its affiliates.

The SBA would consider many, if not most, of the operators the BLM works with in the onshore minerals programs to be small entities. The BLM notes that this final rule does not affect service industries, for which the SBA has a different definition of ''small entity.''

The final rule may affect a large number of small entities since 18 fees for activities on public lands will be increased. However, the BLM has concluded that the effects will not be significant. Most of the fixed fee increases will be less than 3 percent as a result of this final rule. The adjustments result in no increase in the fee for the processing of 30 documents relating to the BLM's minerals programs. The highest adjustment, in dollar terms, is for adjudications of mineral patent applications involving

more than 10 mining claims, which will be increased by $55. For the 2005 final rule, the BLM completed a threshold analysis, which is available for public review in the administrative record for that rule. For instructions on how to view a copy of that analysis, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above. The analysis for the 2005 rule concluded that the fees would not have a significant economic effect on a substantial number of small entities. The fee increases implemented in today's rule are substantially smaller than those provided for in the 2005 rule.

The Small Business Regulatory Enforcement Fairness Act

This final rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). The final rule will not have an annual effect on the economy greater than $100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. For the 2005 final rule, which established the fee adjustment procedure that this rule implements, the BLM completed a threshold analysis, which is available for public review in the administrative record for that rule. The fee increases implemented in today's rule are substantially smaller than those provided for in the 2005 rule.

Executive Order 13132, Federalism

This final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. In accordance with Executive Order 13132, therefore, we find that the final rule does not have significant federalism effects. A federalism assessment is not required.

The Paperwork Reduction Act of 1995

These regulations contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the BLM submitted a copy of the proposed information collection requirements to the Office of Management and Budget (OMB) for review. The OMB approved the information collection requirements under the following Control Numbers:

Oil and Gas

(1) 1004–0034 which expires July 31, 2015;

(2) 1004–0137 which expires October 31, 2014;

(3) 1004–0162 which expires July 31, 2015;

(4) 1004–0185 which expires December 31, 2015;

Geothermal

(5) 1004–0132 which expires December 31, 2013;

Coal

(6) 1004–0073 which expires August 31, 2013, renewal pending;

Mining Claims

(7) 1004–0025 which expires March 31, 2016;

(8) 1004–0114 which expires August 31, 2013; and

Leasing of Solid Minerals Other Than Oil Shale

(9) 1004–0121 which expires March 31, 2016.

Takings Implication Assessment (Executive Order 12630)

As required by Executive Order 12630, the BLM has determined that this rule will not cause a taking of private property. No private property rights will be affected by a rule that merely updates fees. The BLM therefore certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the BLM finds that this final rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

The National Environmental Policy Act (NEPA)

The BLM has determined that this final rule is administrative and involves only procedural changes addressing fee requirements. In promulgating this rule, the government is conducting routine and continuing government business of an administrative nature having limited context and intensity. Therefore, it is categorically excluded from environmental review under Section 102(2)(C) of NEPA, pursuant to 43 CFR 46.205 and 46.210(c) and (i). The final rule does not meet any of the 12 criteria for exceptions to categorical exclusions listed at 43 CFR 46.215.

Pursuant to Council on Environmental Quality (CEQ) regulations and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means categories of actions ''which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of [CEQ] regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.'' 40 CFR 1508.4; see also BLM National Environmental Policy Act Handbook H–1790–1, Ch. 4, at 17 (Jan. 2008).

The Unfunded Mandates Reform Act of 1995

The BLM has determined that this final rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* because it will not result in State, local, private sector, or tribal government expenditures of $100 million or more in any one year, 2 U.S.C. 1532. This rule will not significantly or uniquely affect small governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, the BLM has determined that this final rule does not include policies that have tribal implications. A key factor is whether the rule would have substantial direct effects on one or more Indian tribes. The BLM has not found any substantial direct effects. Consequently, the BLM did not utilize the consultation process set forth in Section 5 of the Executive Order.

Information Quality Act

In developing this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

Effects on the Nation's Energy Supply (Executive Order 13211)

In accordance with Executive Order 13211, the BLM has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The distribution of or use of energy would not be unduly affected by this final rule. It merely adjusts certain administrative cost recovery fees to account for inflation.

Author

The principal author of this rule is Faith Bremner of the Division of Regulatory Affairs, Bureau of Land Management.

List of Subjects in 43 CFR Part 3000

Public lands—mineral resources, Reporting and recordkeeping requirements.

Tommy P. Beaudreau,

Acting Assistant Secretary, Land and Minerals Management.

For reasons stated in the preamble, the Bureau of Land Management amends 43 CFR Chapter II as follows:

PART 3000—MINERALS MANAGEMENT: GENERAL

■ 1. The authority citation for part 3000 continues to read as follows:

Authority: 16 U.S.C. 3101 *et seq.;* 30 U.S.C. 181 *et seq.,* 301–306, 351–359, and 601 *et seq.;* 31 U.S.C. 9701; 40 U.S.C. 471 *et seq.;* 42 U.S.C. 6508; 43 U.S.C. 1701 *et seq.;* and Pub. L. 97–35, 95 Stat. 357.

Subpart 3000—General

■ 2. Amend § 3000.12 by revising paragraph (a) to read as follows:

§ 3000.12 What is the fee schedule for fixed fees?

(a) The table in this section shows the fixed fees that you must pay to the BLM for the services listed for Fiscal Year 2014. These fees are nonrefundable and must be included with documents you file under this chapter. Fees will be adjusted annually according to the change in the Implicit Price Deflator for Gross Domestic Product (IPD–GDP) by way of publication of a final rule in the **Federal Register** and will subsequently be posted on the BLM Web site (*http://www.blm.gov*) before October 1 each year. Revised fees are effective each year on October 1.

FY 2014 Processing and Filing Fee Table

Document/action	FY 2014 fee
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)	
Noncompetitive lease application	$400
Competitive lease application	155
Assignment and transfer of record title or operating rights	90
Overriding royalty transfer, payment out of production	10
Name change, corporate merger or transfer to heir/devisee	210
Lease consolidation	440
Lease renewal or exchange	400
Lease reinstatement, Class I	75
Leasing under right-of-way	400
Geophysical exploration permit application—Alaska	25
Renewal of exploration permit—Alaska	25
Geothermal (part 3200)	
Noncompetitive lease application	400
Competitive lease application	155
Assignment and transfer of record title or operating rights	90
Name change, corporate merger or transfer to heir/devisee	210
Lease consolidation	440
Lease reinstatement	75
Nomination of lands	110
plus per acre nomination fee	0.11
Site license application	60
Assignment or transfer of site license	60
Coal (parts 3400, 3470)	
License to mine application	10
Exploration license application	325
Lease or lease interest transfer	65
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)	
Applications other than those listed below	35
Prospecting permit application amendment	65
Extension of prospecting permit	105
Lease modification or fringe acreage lease	30
Lease renewal	510
Assignment, sublease, or transfer of operating rights	30
Transfer of overriding royalty	30
Use permit	30
Shasta and Trinity hardrock mineral lease	30
Renewal of existing sand and gravel lease in Nevada	30
Public Law 359; Mining in Powersite Withdrawals: General (part 3730)	
Notice of protest of placer mining operations	10
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)	
Application to open lands to location	10

FY 2014 PROCESSING AND FILING FEE TABLE—Continued

Document/action	FY 2014 fee
Notice of location*	20
Amendment of location	10
Transfer of mining claim/site	10
Recording an annual FLPMA filing	10
Deferment of assessment work	105
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30
Mineral patent adjudication	2,995 (more than 10 claims) 1,495 (10 or fewer claims)
Adverse claim	105
Protest	65
Oil Shale Management (parts 3900, 3910, 3930)	
Exploration license application	315
Application for assignment or sublease of record title or overriding royalty	65

*To record a mining claim or site location, you must pay this processing fee along with the initial maintenance fee and the one-time location fee required by statute. 43 CFR part 3833.

* * * * *

[FR Doc. 2013–20037 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

[Docket ID: FEMA–2013–0015]

RIN 1660–AA79

Dispute Resolution Pilot Program for Public Assistance Appeals

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Section 1105 of the Sandy Recovery Improvement Act of 2013 directs FEMA to establish a nationwide Dispute Resolution Pilot Program (DRPP) in order to facilitate an efficient recovery from major disasters, including arbitration by an independent review panel, to resolve disputes relating to Public Assistance projects. This final rule establishes an option for arbitration under the Public Assistance Program administered by the Federal Emergency Management Agency (FEMA). The option allows applicants to file for arbitration, instead of a second appeal under FEMA's current Public Assistance Program. The requests for review under the DRPP must be submitted by December 31, 2015. This final rule provides the procedures and the standard of review that FEMA will apply under the arbitration option.

DATES: *Effective Date:* August 16, 2013.

FOR FURTHER INFORMATION CONTACT: William Roche, Infrastructure Branch Chief, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC, 20472–3100, Phone: (202) 212–2340 or Email: *william.roche@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

APA—Administrative Procedure Act
ARRA—American Recovery and Reinvestment Act of 2009
CFR—Code of Federal Regulations
DRPP—Dispute Resolution Pilot Program
EA—Environmental Assessment
EIS—Environmental Impact Statement
FEMA—Federal Emergency Management Agency
NEPA—National Environmental Policy Act of 1969
OMB—Office of Management and Budget
PRA—Paperwork Reduction Act of 1995
RFA—Regulatory Flexibility Act
SRIA—Sandy Recovery Improvement Act of 2013
Stafford Act—Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended

Table of Contents

I. Executive Summary

A. Purpose of the Regulatory Action

This section provides a concise description of the major provisions in this final rule. The Federal Emergency Management Agency (FEMA) also provides a summary of the costs and benefits of this final rule in this section.

1. Need for the Regulatory Action

FEMA currently authorizes a two-level appeal process for applicants that dispute a FEMA determination related to an application for Public Assistance. Under the Public Assistance Program, FEMA awards grants to State and local governments, Indian Tribal governments, and certain private nonprofit organizations (applicants) to assist them in responding to and recovering from Presidentially declared emergencies and major disasters. The final rule will add a new section at section 206.10, to 44 CFR Part 206. This new section will provide the procedures under which an applicant may request the use of arbitration instead of a second appeal under FEMA's Public Assistance Program.

In order to facilitate an efficient recovery from major disasters, section 1105 of the Sandy Recovery Improvement Act of 2013 (SRIA) directs FEMA to establish the Dispute Resolution Pilot Program (DRPP). This final rule pertains to SRIA's specific requirement that FEMA provide the option of arbitration by an independent review panel to Public Assistance applicants. Arbitration by an independent review panel will only be available for disputes related to disasters declared on or after October 30, 2012, in an amount equal to or greater than $1,000,000, for projects with a non-Federal cost share requirement (i.e.. the grantee/subgrantee have a State/Tribal/local cost share requirement), and for applicants that have completed a first appeal pursuant to 44 CFR 206.206. The arbitration decisions will be binding. The authority for section 1105 of SRIA sunsets on December 31, 2015; therefore, the requests for review under the DRPP must be submitted by December 31, 2015.

2. Legal Authority for the Regulatory Action

Section 1105 of SRIA [1] mandates that FEMA establish procedures under which an applicant seeking disaster assistance under FEMA's Public Assistance Program may request the use of alternative dispute resolution, including arbitration by an independent review panel, to resolve disputes related to eligibility for such disaster assistance. SRIA identifies this as the DRPP and provides a sunset provision prohibiting requests for arbitration after December 31, 2015. This final rule lays out the procedures for the binding arbitration requirement of the DRPP.

B. Summary of the Major Provisions of the Regulatory Action

This rule provides the procedures FEMA and the independent review panels will apply to requests for arbitration under the DRPP, including deadlines for filing the requests, where the requests must be filed, the documents each party must submit, the manner and timing by which the independent review panel will set up preliminary conferences and hearings, how the independent review panel will evaluate any jurisdictional challenges, a standard of review to be applied at the hearings, and the timing of the independent review panel's decisions.

C. Summary of Costs and Benefits

As this rule provides the option for arbitration instead of a second appeal, it imposes no mandatory costs on the public. FEMA estimates an DRPP annual average net cost of $1,392,147 based on an estimated average 20 arbitration requests per year and costs associated with initial arbitration processing, preliminary administrative conferences, oral hearings, jurisdictional challenges, frivolous requests, and cost savings associated with second appeals not completed in favor of arbitration. This cost includes a $401,142 applicant net cost, $60,937 grantee net cost, and $930,068 FEMA net cost (including independent review panel costs).

Benefits of this rule include providing flexibility for applicant recourse and a likely increase in applicant satisfaction through the use of an independent panel. It also institutes a streamlined process that clearly identifies areas/issues in dispute and encourages the use of arbitration when appropriate, thereby increasing the speed at which disputes are resolved. Furthermore, information from the pilot will help determine if arbitration should be provided as a permanent option in the future.

FEMA uses the net annual average cost identified above to calculate an DRPP total cost of $3.5 million (undiscounted) for the 2.5 years of the pilot program. At a 7 percent discount rate, the total cost equals $3.2 million and $1.4 million annualized. The summary table below presents a summary of the benefits and costs of the rule.

TABLE 1—COMPARISON OF DISPUTE RESOLUTION PILOT PROGRAM NET COSTS AND BENEFITS

Year [1]	Total	7% Discount [2]	3% Discount [3]	Benefits
2013	$696,074	$696,074	$696,074	Provides flexibility for applicant recourse and likely increases applicant satisfaction through use of an independent panel.
2014	1,392,147	1,301,072	1,351,599	Institutes a streamlined process that clearly identifies areas/issues in dispute and encourages use of arbitration, when appropriate, thereby increasing speed at which disputes are resolved.
2015	1,392,147	1,215,955	1,312,232	Information from pilot will help determine if arbitration should be a permanent option.
Total	3,480,368	3,213,101	3,359,905	
Annualized		1,445,344	1,415,041	

[1] Year 2013 only contains 6 months of activity; thus half the annual average cost. Also, as the rule is expected to be published in 2013; the associated discount equates to 1 which does not change 2013 dollar values.
[2] 7% Discount = Total × (1/(1+0.07) − (year-2013)).
[3] 3% Discount = Total ×(1/(1+0.03) − (year-2013)).

[1] Sandy Recovery Improvement Act of 2013, Public Law 113–2, 127 Stat. 43 (Jan. 29, 2013), 42 U.S.C. 5189a note.

II. Background

A. Sandy Recovery Improvement Act of 2013

On January 29, 2013, President Obama signed into law the Sandy Recovery Improvement Act of 2013 [2] (SRIA). The law authorizes several significant changes to the way the Federal Emergency Management Agency (FEMA) may deliver disaster assistance under a variety of programs. Section 1105 of SRIA directs FEMA to establish a nationwide Dispute Resolution Pilot Program (DRPP), including arbitration by an independent review panel to resolve disputes relating to Public Assistance projects, in order to facilitate an efficient recovery from major disasters. This final rule establishes the DRPP for arbitration by an independent review panel of second appeals. Arbitration by an independent review panel will only be available for disputes in an amount equal to or greater than $1,000,000, for projects with a non-Federal cost share requirement (i.e., the grantee/subgrantee have a State/Tribal/local cost share requirement), and for applicants that have completed a first appeal pursuant to 44 CFR 206.206. The arbitration decisions will be binding upon the parties to the dispute as required by section 1105(b)(2) of SRIA. Applicants may choose to use for their second appeal either the DRPP or the review already offered under 44 CFR 206.206. Under section 1105 of SRIA, the authority to accept requests for arbitration pursuant to the DRPP sunsets on December 31, 2015; therefore, the requests for review under this Program must be submitted by December 31, 2015. However, pursuant to this rule, FEMA will continue to process and finalize any proper request made on or before December 31, 2015.

The arbitration process available under the DRPP is separate and distinct from the arbitration process established by the Arbitration for Public Assistance Determinations Related to Hurricanes Katrina and Rita (Disasters DR–1603, DR–1604, DR–1605, DR–1606, and DR–1607) final rule. See 74 FR 44761, Aug. 31, 2009, 44 CFR 206.209. The differences between the Hurricanes Katrina and Rita arbitration process and the DRPP include, but are not limited to: (1) The Hurricanes Katrina and Rita arbitration process is limited to just Hurricanes Katrina and Rita claims; (2) there is no sunset date for the Hurricanes Katrina and Rita arbitration process; (3) the amount in dispute for the Hurricanes Katrina and Rita arbitration process is $500,000, whereas the amount in dispute for the DRPP is $1,000,000; (4) there is no standard of review specified for the Hurricanes Katrina and Rita arbitration process, whereas the standard of review for the DRPP is arbitrary, capricious, or an abuse of discretion; (5) the Hurricanes Katrina and Rita arbitration process does not require the applicant to complete a first appeal under 44 CFR 206.206, whereas the DRPP does require the applicant to complete a first appeal; and (6) the DRPP limits the evidence to be presented to the administrative record that was established as of the first appeal, whereas the Hurricanes Katrina and Rita arbitration process does not limit the evidence that may be presented. Despite these differences, various aspects of the Katrina and Rita Arbitration Program provide insight into how the DRPP may operate, such as the frequency of in-person hearings, number of participants at preliminary administrative conferences and hearings, and time spent preparing arbitration materials. FEMA has used such information to help inform its economic analysis.

B. Public Assistance Process for Project Approval

Under the Public Assistance Program, authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act [3] (Stafford Act), FEMA awards grants to eligible applicants to assist them in responding to and recovering from Presidentially-declared emergencies and major disasters as quickly as possible. The grantee, as defined at 44 CFR 206.201(e), is the government to which a grant is awarded and which is accountable for the use of the funds provided. Generally, the State for which the emergency or major disaster is declared is the grantee. The applicant, as defined at 44 CFR 206.201(a), is a State agency, local government, or eligible private nonprofit organization submitting an application to the grantee for assistance under the State's grant.

The Public Assistance Program provides Federal funds for debris removal, emergency protective measures, and permanent restoration of infrastructure. When the President declares an emergency or major disaster declaration authorizing the Public Assistance Program, that presidential declaration automatically authorizes FEMA to accept applications from eligible applicants under the Public Assistance Program. To apply for a grant under the Public Assistance Program, the eligible applicant must submit a Request for Public Assistance to FEMA through the grantee, which is usually the State but may be an Indian Tribal government. An eligible applicant may use FF–009–0–49, to apply for public assistance. Upon award, the grantee notifies the applicant of the award, and the applicant becomes a subgrantee.

Project Worksheets for large projects are developed by a FEMA Project Specialist, working with a grantee representative and the applicant, and are submitted directly to a FEMA Public Assistance Crew Leader for review and processing. A Project Worksheet is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for a project. Although large projects are funded on documented actual costs, work typically is not complete at the time of project formulation, Project Worksheet development, and approval. Therefore, FEMA obligates large project grants based on estimated costs and relies on financial reconciliation at project closeout for final costs. The obligation process is the process by which funds are made available to the grantee. The funds reside in a Federal account until drawn down by the grantee and disbursed to the applicant, unless partially or otherwise deobligated for reasons including, but not limited to, discrepancies between estimated and actual costs, updated estimates, a determination that a prior eligibility determination was incorrect, additional funds received from other sources that could represent a prohibited duplication of benefits, or expiration of the period of performance.

At times an applicant/grantee or applicant may disagree with FEMA regarding a determination related to their request for Public Assistance. Such disagreements may include, for instance, whether an applicant, facility, item of work, or project is eligible for Public Assistance; whether approved costs are sufficient to complete the work; whether a requested time extension was properly denied; whether a portion of the cost claimed for the work is eligible; or whether the approved scope of work is correct. In such circumstances, the applicant may appeal FEMA's determination. See 44 CFR 206.206.

C. Public Assistance Appeal Process Under 44 CFR 206.206

Traditionally, under the appeals procedures in 44 CFR 206.206, an

[2] Sandy Recovery Improvement Act of 2013, Public Law 113–2, 127 Stat. 43 (Jan. 29, 2013), 42 U.S.C. 5189a note.

[3] Disaster Relief Act of 1974, Public Law 93–288, 88 Stat. 143 (May 22, 1974), as amended, 42 U.S.C. 5121 *et seq.*

eligible applicant may appeal any determination made by FEMA related to an application for or the provision of Public Assistance. There are two levels of appeal. The first level appeal is to the FEMA Regional Administrator. The second level appeal is to the FEMA Assistant Administrator for Recovery.

The applicant must file an appeal with the grantee within 60 days of the appellant's receipt of a notice from FEMA of the Federal determination that is being appealed. The applicant must provide documentation to support the position of the appeal. In this documentation, the applicant will specify the monetary amount in dispute and the provisions in Federal law, regulation, or policy with which the applicant believes the initial action by FEMA was inconsistent. The grantee reviews and evaluates the appeal documentation. The grantee then prepares a written recommendation on the merits of the appeal and forwards that recommendation to the FEMA Regional Administrator within 60 days of the grantee's receipt of the appeal from the applicant.

The FEMA Regional Administrator reviews the appeal and takes one of two actions: (1) Renders a decision on the appeal and informs the grantee of the decision; or (2) requests additional information. If the appeal is granted, the FEMA Regional Administrator takes appropriate action, such as approving additional funding or sending a Project Specialist to meet with the appellant to determine additional eligible funding.

If the FEMA Regional Administrator denies the appeal, the applicant may submit a second appeal. The applicant must submit the second appeal to the grantee within 60 days of receiving notice of the FEMA Regional Administrator's decision on the first appeal. The grantee must forward the second level appeal with a written recommendation to the FEMA Regional Administrator within 60 days of receiving the second appeal. The FEMA Regional Administrator will forward the second appeal for action to the FEMA Assistant Administrator for Recovery as soon as practicable.

The FEMA Assistant Administrator for Recovery reviews the second appeal and renders a decision or requests additional information from the applicant. In a case involving highly technical issues, FEMA may request an independent scientific or technical analysis by a group or person having expertise in the subject matter of the appeal. Upon receipt of requested information from the applicant and any other requested reports, FEMA is required by regulation to render a decision on the second appeal within 90 days. As stated in 44 CFR 206.206(e)(3), this decision constitutes the final administrative decision of FEMA.

III. Discussion of the Rule

A. Scope

The rule implements the DRPP program required by SRIA and sets out the Program's procedures, so that applicants may request the use of binding arbitration instead of the second administrative appeal process set out in 44 CFR 206.206.

B. Definitions

FEMA defines the term *administrative record* introduced in section 1105(b)(3)(D)(ii) of SRIA to make clear that the record which will be used during the arbitration process is based upon the documents and materials considered by the agency when making the first appeal determination.

The term *applicant* is used throughout this regulation text and it refers to the definition in FEMA's regulations at 44 CFR 206.201(a).

FEMA defines the term *arbitration sponsor* in order to clarify that there will be a third party administrator of the arbitration program that FEMA will select so that it may implement the binding arbitration provision introduced in section 1105(b)(1) of SRIA. As set out in section 1105(b)(3)(C), the sponsor must be:

> (i) an individual or entity unaffiliated with the dispute (which may include a Federal agency, an administrative law judge, or a reemployed annuitant who was an employee of the Federal Government) selected by the Administrator; and (ii) responsible for identifying and maintaining an adequate number of independent experts qualified to review and resolve disputes under [section 1105 of SRIA.]

FEMA defines the term *frivolous* introduced in section 1105(b)(3)(F) of SRIA to set a standard for when an arbitration may be dismissed and costs awarded to FEMA from the applicant.

The term *grantee* is used throughout this regulation text and it refers to the definition in FEMA's regulations at 44 CFR 206.201(e).

FEMA defines the term *legitimate amount in dispute* introduced in section 1105(a)(2)(B) of SRIA to make clear that the $1,000,000 or more threshold for arbitrations will be based on the difference between the funding amount sought by the applicant as reimbursable under the Public Assistance Program for a project and the funding amount FEMA has determined eligible for a project and not to be based on some other amount, such as the total dollar value of the project including agreed upon costs.

Non-Federal share means that the project is not 100% federally funded and the applicant or grantee bear a percentage of the costs pursuant to the cost sharing provisions established in the FEMA-State Agreement and the Stafford Act.

FEMA defines *notice* to make clear that the phrase ''notice of determination'' contained in FEMA's regulations at 44 CFR 206.206 means deadlines must be calculated based upon the applicant initially receiving actual notice of the determination at issue regardless of whether the grantee receives notice simultaneously or the grantee forwards the notice to the applicant a second time.

Panel means an independent review panel referenced in section 1105(b)(1) of SRIA. A panel consists of three members who are qualified to review and resolve disputes under section 1105 of the SRIA.

C. Applicability

The DRPP will only be available to applicants if the dispute is for Public Assistance funding provided under disasters declared on or after October 30, 2012. As required by section 1105(a)(2)(B) of SRIA, the legitimate amount in dispute must be equal to or greater than $1,000,000. The legitimate amount in dispute is determined based on the difference between the funding amount sought by the applicant as reimbursable under the Public Assistance Program for a project and the funding amount FEMA has determined eligible for a project. The dollar amount for the legitimate amount in dispute will be adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor. FEMA will publish a **Federal Register** Notice to announce when the dollar amount for the legitimate amount in dispute has been adjusted.

As required by section 1105(a)(2)(C) of SRIA, the project must have a cost-share such that the applicant and/or the grantee bear a portion of the costs. As required by section 1105(a)(2)(D) of SRIA, the applicant must have received a decision on a first appeal, and choose to file an arbitration instead of filing a second appeal pursuant to 44 CFR 206.206. The DRPP is a voluntary program; as such, the applicant may still file a second appeal pursuant to 44 CFR 206.206. However, the applicant must make a choice: it may either file a second appeal pursuant to 44 CFR 206.206 or an arbitration pursuant to the DRPP, but may not pursue both options.

D. Governing Rules

The governing rules are found within sections 403, 406, or 407 of the Stafford Act. Further, the dispute will be decided pursuant to FEMA's interpretations of those sections of the Stafford Act. These interpretations may include, but are not limited to, 44 CFR Part 13; 44 CFR Part 206; the FEMA Public Assistance Guide (FEMA Publication 321); the FEMA Public Assistance Digest (FEMA Publication 322); policies published in the 9500 series related to FEMA's Public Assistance Program; any applicable Public Assistance guidance, fact sheets, or standard operating procedures; evidence of FEMA's practical applications of those policies to other applicants with similar requests for Public Assistance; and Federal caselaw interpreting FEMA's Public Assistance Program.

E. Limitations

Arbitration is only available for any Public Assistance funding dispute arising from disasters declared on or after October 30, 2012. Further, arbitration procedures are only available if the applicant chooses to file an arbitration instead of filing a second appeal under 44 CFR 206.206.

Historically, FEMA has interpreted new statutory authorizations that lack retroactive language to apply to all disaster declarations occurring on or after the date of enactment. Section 1105 of SRIA, however, is included in an act expressly intended to improve recovery from Hurricane Sandy and it is likely that Congress intended FEMA to apply section 1105 of SRIA to disputes arising from the disasters declared for Hurricane Sandy (October 30, 2012), even if that disaster declaration has already occurred, and in future disasters. In addition, because arbitration is optional, applicants can continue to use previously promulgated procedures and would not be negatively impacted by this arbitration rule, even though the rule is being promulgated after the declaration has occurred.

F. Request for Arbitration

To file a Request for Arbitration, an applicant must electronically submit the form to FEMA, the grantee, and the arbitration sponsor. FEMA will provide the applicants with the specific, required information to make such electronic submissions in the first appeal determination.

G. Administrative Record

FEMA will provide a copy of the administrative record to the applicant, the grantee, and the arbitration sponsor, 15 calendar days after it receives the Request for Arbitration. The administrative record will constitute the whole of the evidence that may be considered by the panel when it makes a determination on the claim. This administrative record may include, but is not limited to, Project Worksheets (all versions) and supporting backup documentation, correspondence, photographs, and technical reports.

H. Submissions Related to Arbitration

The grantee must submit the name and address of the grantee's chosen authorized representative(s) within 15 calendar days of receipt of the Request for Arbitration. The grantee may also include a written recommendation in support or opposition to the applicant's Request for Arbitration.

The applicant will provide a statement of claim in order to clarify the disputed aspects of the first appeal determination. The applicant must cite to specific sections of the administrative record to clarify the issues, and specifically must identify which statutes, regulations, policies, or guidance support their claim.

Within 30 calendar days of receipt of the applicant's statement of claim, FEMA will provide a memorandum in support of its position and the name and address of its authorized representative.

I. Selection of Panel

As required by section 1105(b)(3)(C) of SRIA, FEMA will choose an arbitration sponsor that is unaffiliated with the dispute to ensure independence of the arbitration process. FEMA may select a sponsor that is a commercial entity through a competitive procurement process or it may select a sponsor from another Federal Agency or entity. This sponsor will be responsible for choosing the panel which will be comprised of three members who are qualified to review and resolve disputes under section 1105 of SRIA. The arbitrators must be neutral and independent and must not have had any prior involvement with the contested appeal.

J. Challenge of Arbitrator(s)

SRIA specifically provides FEMA authority to establish independent review panels as part of its appeals process. As such, it is important to allow the parties to assess whether the selected arbitrators are impartial and independent.

This paragraph sets forth the procedures by which a party may challenge the impartiality or independence of the arbitrators, if circumstances exist that give rise to justifiable doubt as to the arbitrator's impartiality or independence. The procedures are based on an industry standard. A party challenging an arbitrator will send notice stating the reasons for the challenge. The other party will have the right to respond to the challenge. The other party may agree to the challenge and in such circumstances the arbitration sponsor will appoint a replacement arbitrator. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the arbitration sponsor. If the arbitration sponsor orders the withdrawal of the challenged arbitrator, the arbitrator sponsor will appoint a replacement arbitrator.

K. Preliminary Administrative Conference

The preliminary conference will be held within 15 calendar days of receipt of FEMA's response to the applicant's statement of claim. The parties will have the opportunity to discuss the conduct of the hearing, such as whether there will be witnesses, the nature and duration of witness testimony, whether the parties will make additional statements, when the hearing will take place, and any preliminary requests, including a request for an in-person hearing. The panel will memorialize the preliminary conference in a scheduling order setting forth the agreements the parties reached and the deadlines the panel set during the preliminary conference.

L. Jurisdictional and Arbitrability Challenges

The panel may consider jurisdictional and arbitrability challenges to the Request for Arbitration. Jurisdictional and arbitrability challenges include, but are not limited to, disputes over whether the Request for Arbitration is appropriately filed according to the scope (Section A), applicability (Section C), and limitations (Section E) of this section and whether the applicant has filed a timely Request for Arbitration. The panel may suspend the arbitration proceedings while it considers the challenge, and may dismiss the request prior to any hearing if the panel determines the challenge has merit.

M. Hearing

This paragraph describes the hearings that may take place under this section and specifically allows for hearings in person or by teleconference, such that all parties may hear all other participants. The applicant selects whether the hearing is in-person or via

teleconference. The hearings should take place within 60 calendar days of the preliminary conference, schedules permitting, and the hearing may be postponed upon a showing of good cause such as unexpected unavailability of the authorized representative or witnesses, jurisdictional or arbitrability challenges, or challenges to the independence of the arbitrators. The witnesses may only present testimony related to issues that were previously included in the first appeal determination and may only refer to evidence already in the administrative record, per section 1105(b)(3)(D)(ii) of SRIA. A party may specifically request and arrange for a written transcript of the hearing at its own expense. The requesting party must also pay for a copy of the transcript for the Panel members. The non-requesting party may not object to a written transcript but may also request a copy of the transcript and will be responsible for paying for its own copy.

N. Standard of Review

This paragraph sets forth the standard of review for the hearings. The panel will only set aside the agency determination if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. In the case of a FEMA finding of material fact adverse to the applicant on the first appeal, the panel will only set aside or reverse such a finding if the finding was clearly erroneous.

O. Ex Parte Communications

This paragraph prohibits ex parte communication between the panel and a party. This means that neither the applicant, the grantee, nor FEMA may communicate with an arbitrator without the participation of the other parties or their representatives. If a party violates this provision, the panel will direct the violating part to write a memorandum of the communication that will be included in the record. The panel will give the non-violating party an opportunity for rebuttal. The panel may require the party who engages in an unauthorized ex parte communication to show cause why the panel should continue the matter instead of finding in favor of the opposing party as a result of the improper conduct.

P. Decision

The panel must issue a written and reasoned decision that sets forth the findings of fact and conclusions of law within 60 days of the hearing. If the applicant does not request a hearing, the panel must issue a written and reasoned decision within 60 calendar days of administrative conference. The majority decision of the panel will be in writing, signed by each member of the panel in agreement with the decision. A dissenting member may file a separate written dissent. The decision by the panel is binding and is not subject to judicial review, except as permitted by 9 U.S.C. 10 of the Federal Arbitration Act.

Q. Costs

FEMA will pay the fees associated with the panel including arbitrator compensation, and the arbitration facility costs, if any. However each party will be responsible for its own expenses, including but not limited to: attorney's fees, expert witness fees, copying costs, and travel or other expenses associated with the parties and all witnesses attending the hearing. Any other expenses not listed in this paragraph will be paid by the party who incurred the expense.

R. Frivolous Requests

The panel will deny any frivolous request, defined as the applicant knew or reasonably should have known that its actions lack an arguable basis in law, policy, or in fact. An example of a frivolous claim is one where FEMA has informed the applicant that specific information is required in order to prove the applicant's claim and the applicant failed to provide the information in the project formulation process or first appeal process. An applicant determined to have submitted a frivolous claim will be directed to pay the fees associated with the panel including arbitrator compensation, and the arbitration facility costs, if any, to prevent the inappropriate use of Federal funds for arbitrations for claims.

S. Deadline

This section addresses the sunset provision in the SRIA which provides that an applicant cannot make a request for review by the panel under this section after December 31, 2015. However, pursuant to this rule, FEMA will continue to process and finalize any proper request made on or before December 31, 2015.

IV. Regulatory Analyses

A. Administrative Procedure Act

The Administrative Procedure Act (APA) requires an agency to publish a rule for public comment prior to implementation. 5 U.S.C. 553. The APA, however, provides an exception to the notice and comment requirements for rules of agency procedure or practice. 5 U.S.C. 553(b)(3)(A).

This final rule implements section 1105 of SRIA by detailing how a Public Assistance applicant may request arbitration instead of the currently offered second appeal. This final rule is a procedural rule because it is an agency rule of practice governing the conduct of proceedings. It establishes procedures for making an arbitration request and the procedures FEMA will follow in providing an arbitration decision. The rule does not affect eligibility under the Public Assistance Program; rather, it adds an option for review of Public Assistance determinations to expedite recovery efforts by providing greater flexibility within the Public Assistance Program. FEMA already provides for review determinations on public assistance grants through the appeal provisions of 44 CFR 206.206. This final rule simply provides an alternate procedure for seeking such a review of FEMA determinations.

This does not confer any substantive rights, benefits, or obligations and only sets out the agency's procedure for how to voluntarily request an arbitration. Since this rule is procedural in nature, it is excepted from the notice and comment requirements under 5 U.S.C. 553(b)(A). FEMA finds there is good cause not to require a 30-day delayed effective date because delaying implementation of the rule by 30 days reduces the opportunity for applicants to fully participate in this time-limited pilot program. 5 U.S.C. 553(d)(3).

B. Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improving Regulation and Regulatory Review

FEMA has prepared and reviewed this rule under the provisions of Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, Oct. 4, 1993) as supplemented by Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821, Jan. 21, 2011). Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget

(OMB). A Regulatory Evaluation with details and calculations related to the costs and benefits of the rule is available in the docket. A summary of the evaluation follows:

This rule establishes the procedures for the DRPP which provides an option for applicants in the FEMA Public Assistance Program to file for arbitration when they want to dispute a FEMA eligibility determination that involves an amount in dispute greater than or equal to $1,000,000. Eligibility disputes are presently resolved through a two level administrative appeals process within FEMA, and arbitration will be an option to applicants instead of a second appeal. This rule is entirely voluntary. By statute, the DRPP will accept Requests for Arbitration until December 31, 2015.

Traditionally, under the appeals procedures in 44 CFR 206.206, an eligible applicant may appeal any determination made by FEMA related to an application for or the provision of Public Assistance. There are two levels of appeal; the first level appeal is to the FEMA Regional Administrator and the second level appeal is to the FEMA Assistant Administrator for Recovery. Typical appeals involve disputes regarding whether an applicant, facility, item of work, or project is eligible for Public Assistance; whether approved costs are sufficient to complete the work; whether a requested time extension was properly denied; whether a portion of the cost claimed for the work is eligible; or whether the approved scope of work is correct. The first appeal process will be the same for all applicants. Under this rule, applicants who seek further review of the first appeal will have the option of choosing a second appeal or arbitration. The second appeal process is similar to the first appeal process, but constitutes a review of the first appeal, is considered at FEMA headquarters, and the decision on the second appeal is the final administrative decision of the Agency. Despite some similarities, arbitrations under the DRPP will include a few procedural differences to second appeals. Key differences include a formal process to interact with FEMA and provide explanatory information (e.g., statement of claim) as well as the opportunity to interact and present one's case to an independent panel. See Table 2 for a comparison of the baseline second appeals process to the DRPP.

TABLE 2—COMPARISON BETWEEN SECOND APPEAL & DISPUTE RESOLUTION PILOT PROGRAM

	Second appeal	Arbitration
Steps After First Appeal Decision.	Decision to request a 2nd appeal within 60 days of receiving notice of the Regional Administrator's decision.	Decision to request arbitration instead of a 2nd appeal within 15 days of receiving notice of the Regional Administrator's decision.
Applicant File for 2nd Appeal.	Appellant submits 2nd appeal request to the grantee; typically a letter which reiterates the information provided in the 1st appeal.	Applicant files a Request for Arbitration form electronically to FEMA, the grantee, and the arbitration sponsor.
Grantee Recommendation.	Grantee forwards 2nd appeal with a written recommendation to the FEMA Regional Administrator; typically a letter addressing any changes to previous recommendation.	Grantee submits the name and address of an authorized representative and may provide a written recommendation to FEMA, the grantee, and the arbitration sponsor.
Transmission to FEMA HQ.	FEMA Regional Administrator reviews the information provided with the 2nd appeal and forwards it with a recommendation for action to the FEMA Assistant Administrator.	Transmission covered by simultaneous distribution between applicant, grantee, FEMA, and arbitration sponsor.
Additional Dispute Resolution Pilot Program Steps		*Administrative record*—FEMA provides a copy of all the documents and materials directly or indirectly considered by the agency and relied upon in making the 1st appeal determination. *Appointment of Panel*—An independent review panel consisting of three Administrative Law Judges. *Applicant statement of claim*—applicant provides a statement clarifying the disputed aspects of the 1st appeal determination and support for their claim. *FEMA response*—FEMA provides a memorandum in support of its position and the name and address of its authorized representative.
Additional Info ..	FEMA Regional Administrator or FEMA Assistant Administrator may request additional information if necessary. This may include independent scientific or technical analysis regarding the subject matter of the appeal.	The administrative record will constitute the whole of the evidence that may be considered in order to make a determination on the claim.
FEMA Final Decision.	FEMA Headquarters reviews the appeal and the FEMA Assistant Administrator renders a decision on the appeal and informs the grantee of the decision.	*Preliminary admin conference*—provides opportunity to discuss the conduct of the hearing and answer procedural questions. *Hearing*—presentation of positions and witnesses, as appropriate, to an independent panel either in person or by teleconference. *Panel decision*—The panel issues a written and reasoned decision that sets forth the findings of fact and conclusions of law.

To estimate second appeal applicants who may choose arbitration, FEMA uses disaster related second appeals received in FY 2011 and FY 2012 with amounts in dispute greater than or equal to $1,000,000 (adjusted for inflation).[4]

[4] Data on appeal dollar amounts are only available for FY11 and FY12.

There were 23 second appeals in FY 2011 and 8 second appeals in FY 2012. Based on this data, FEMA rounds up to estimate a range of 10 to 30 second appeal applicants per year who may choose arbitration.

FEMA uses its experience from arbitrations statutorily mandated (section 601 of the American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115 (Feb. 17, 2009, 26 U.S.C. 1 note)) and codified in 44 CFR 206.209 for the Hurricanes Katrina and Rita disasters to help inform many of its estimates. In particular, FEMA's experiences related to Mississippi arbitrations—where the relevant Public Assistance Program is almost completed, the issues encountered have involved all phases of disaster operations, and the disputes are comparable to what FEMA historically encounters—has been particularly useful in informing our estimates. To calculate the DRPP costs, FEMA estimates average annual costs associated with all aspects of the arbitration process, including initial arbitration processing, preliminary administrative conferences, oral hearings, jurisdictional challenges, and frivolous requests.

Initial arbitration processing costs largely include time spent by applicants, grantees, and FEMA developing and providing process documentation. Using the existing second appeal information collection (1660–0017) as a guide, FEMA estimates an applicant will spend 1 hour of a State government management employee's time (or equivalent) submitting a Request for Arbitration and a grantee will spend 2 hours of a State government management employee's time (or equivalent) providing a recommendation. In addition, based on its experience from Hurricane Katrina and Rita Mississippi arbitrations, FEMA estimates that an applicant's authorized representative will spend approximately 40 hours composing the statement of claim. Also based on Hurricane Katrina and Rita Mississippi arbitration experience, FEMA estimates the equivalent of a General Service (GS) 11 employee located in Washington, DC will spend 2 hours processing the aforementioned material and the equivalent of a GS 14 employee located in Washington, DC will spend 40 hours composing its memorandum of response. The estimated number of arbitration requests and associated wage rates are applied to the hour estimates for an average annual cost of $131,659.[5] The benefits of the initial arbitration process include a formal process which further clarifies the area and issues in dispute, as well as articulating each party's position.

FEMA anticipates that all Requests for Arbitration will require a preliminary administrative conference with the selected panel. Preliminary administrative conference costs include applicant, grantee, and FEMA participant time spent preparing for the conference plus time actually in conference. The number of participants is a key cost contributor. Based on Hurricane Katrina and Rita Mississippi arbitrations, FEMA estimates conferences will last 1 hour and each participant will spend 2 hours preparing for the conference. Also based on Hurricane Katrina and Rita Mississippi arbitrations, FEMA estimates an average of 3 applicant participants (authorized representative), 2 grantee participants (State government management employee), and 3 FEMA participants (GS 14 (2 from Washington, DC)). The estimated number of conferences and associated wage rates are applied to the hour estimates and the number of participants for an average annual cost of $34,198. The benefits of a preliminary administrative conference include addressing any prehearing questions and matters, including conduct of the arbitration, clarification of the disputed issues, request for disqualification of an arbitrator (if applicable), and any other preliminary matters.

Based on the Hurricane Katrina and Rita Mississippi arbitrations, FEMA estimates that 60 percent (9/15 = 0.6) of all Requests for Arbitration will result in oral hearings, and, last 2 days. Oral hearing costs include applicant, grantee, and FEMA participant time preparing for the hearing plus time actually spent in the hearing. The number of participants is a key cost contributor. Based on Hurricane Katrina and Rita Mississippi arbitrations, FEMA estimates an average of 5 applicant participants (2 authorized representatives plus 3 witnesses (State government management employee)), 1 grantee participant (State government management employee), and 6 FEMA participants (GS14 (1 from Washington, DC)). Furthermore, based on experience from Hurricanes Katrina and Rita Mississippi arbitrations, FEMA estimates that all participants will appear in-person.

The FEMA employees who typically decide second appeals and the litigators who will defend the Agency will be based out of FEMA's Washington, DC office. The closest facility the arbitration sponsor maintains near Washington, DC is in Baltimore, MD. Further, based on the current disaster activity, FEMA anticipates that a significant number of arbitration requests that will be eligible for the DRPP will arise out of FEMA Region II (NY, NJ, PR, VI). In addition, the arbitration sponsor's New York facility is larger and will hold more participants, if necessary. Therefore, FEMA anticipates that half of the oral hearings will take place in New York, New York and half in Baltimore, MD. As such, FEMA also accounts for travel to New York and to Baltimore including airfare (round trip), lodging for 3 nights, meals and incidentals for 4 days, and travel time (2 days) per traveling participant. The meals and incidental expenses are comprised of 2 days of the oral hearing plus 2 days for the travel time, so the total is 4 days. Application of the estimated number of hearings to the associated wage rates, hour estimates, number of participants, and travel costs, and transcript costs results in an average annual cost of $698,177. Benefits of an oral hearing include the opportunity to enter into a dialogue with FEMA and present one's case to an independent panel, who will make a decision that is more likely to be accepted. FEMA expects presentation of an applicant's views and positions in a neutral forum will solidify the finding and reduce requests for reconsideration (despite first and second appeal limitations in regulations) and the solicitation of involvement from other entities at the local, State, or Federal level to advocate on behalf of an applicant regarding an unsatisfactory final determination.

Under this rule, jurisdictional or arbitrability challenges may be raised at any time and are typically addressed independently of an oral hearing. Such challenges include disputes over whether the Request for Arbitration is appropriately filed according to the scope, applicability, and limitations put forth by this rule and whether the applicant has filed a timely Request for Arbitration. Based on Hurricane Katrina and Rita Mississippi arbitrations, FEMA estimates a 13-percent likelihood of such challenges.[6] Although time to address such matters will vary, FEMA's Response and Recovery Legal Division Litigation Branch estimates an applicant will spend on average 15 hours reviewing and responding to a challenge

[5] See the Regulatory Evaluation available in the docket for additional details and calculations used to develop this and other cost estimates summarized in this rule.

[6] Hurricane Katrina and Rita arbitration data shows 2 challenges from the 15 Mississippi arbitrations related to jurisdiction and arbitrability, which is about 13 percent (2/15 × 100 = 13.33).

per presenter (2 authorized representatives), plus 1 hour of applicant and grantee (1 State government management employee) time per participant for resolution. In addition, FEMA's Response and Recovery Legal Division Litigation Branch estimates an average of 25 hours of FEMA presenter time (2 GS 14 (1 from Washington, DC)) per challenge. Application of the associated wage rates results in an annual average challenge cost of $15,729. A benefit of allowing jurisdictional and arbitrability challenges is that it encourages the use of the arbitration process when appropriate and provides the ability to stop or adjust an arbitration if it is not appropriate or did not follow the proper process.

Frivolous requests for arbitration, as determined by the panel, will be denied and the applicant will be required to pay reasonable costs to FEMA relating to the review by the panel, including fees and expenses. Such costs will be assessed on a case-by-case basis. FEMA assumes the cost to address such requests is comparable to jurisdictional challenges—16 hours of an applicant's presenter(s) time (2 authorized representatives), 1 hour of a grantee's participant time (1 State government management employee), and 25 hours of FEMA's presenter time (2 GS14 (1 from Washington, DC)) on average. Based on experience from Hurricane Katrina and Rita arbitrations, FEMA estimates the potential for such claims is 1 out of 40 (2.5 percent). Application of the associated wage rates results in an annual average frivolous request cost of $3,024. This provision discourages the use of the arbitration when inappropriate, by penalizing the filing of requests without merit.

In addition, FEMA estimates cost savings associated with avoided second appeals for applicants, grantees, and FEMA, because arbitration must be selected instead of a second appeal. Based on FEMA's existing Public Assistance Program Information Collection Request (1660–0017), FEMA estimates a second appeal request takes a State government management employee approximately 2 hours and a grantee recommendation takes a State government management employee approximately 1 hour. In addition, FEMA's Recovery Office estimates that additional information will be necessary approximately 33 percent of the time (⅓ = 0.3333) and will take applicants, on average, 1 hour to locate, copy, and provide the information to FEMA. FEMA also estimates processing second appeals takes approximately 40 hours of a GS 13 employee's time (located in Washington, DC), 20 hours of a GS 15 employee's time (located in Washington, DC), and 3 hours of an Senior Executive Service (SES) employee's time. Therefore, cost savings due to avoided second appeals include 2.33 hours of applicant time, 1 hour of grantee time, and 63 hours of FEMA time. Application of the estimated number of arbitration requests and associated wage rates, results in an annual average cost savings of $90,640.

Furthermore, FEMA would incur costs associated with providing panels through an arbitration sponsor. Consistent with section 1105(b)(3)(C) of SRIA, FEMA intends to have arbitration services provided by the U.S. Coast Guard's Administrative Law Judge (ALJ) Program. Based on the prior costs of cases handled by the Coast Guard ALJ Program, FEMA estimates that the cost of arbitration services will be approximately $600,000 annually.

The Dispute Resolution Pilot Program total annual average cost equals $1,392,147. See Table 3 for details.

TABLE 3—SUMMARY OF ANNUAL AVERAGE COSTS AND BENEFITS BY CATEGORY

Categories	Applicant	Grantee	FEMA	Annual average cost	Benefit
Initial Arbitration	$71,357	$2,170	$58,132	$131,659	Clearly identifies the areas/issues in dispute and each party's position.
Preliminary Administrative Conference.	$15,811	$6,510	$11,877	$34,198	Addresses prehearing questions, sets schedule, and resolves an annual average of 40 percent or 8 cases.
Oral Hearing	$307,789	$53,174	$337,214	$698,177	Provides opportunity to state one's case and interact with FEMA in coming to a decision which contributes to it being accepted as final.
Jurisdictional Challenges	$7,308	$141	$8,280	$15,729	Encourages use of arbitration process when appropriate and provides ability to stop or adjust arbitration if not appropriate.
Frivolous Requests	$1,405	$27	$1,592	$3,024	Encourages use of arbitration process when appropriate by penalizing the filing of requests without merit.
Second Appeal Cost Savings.	−$2,528	−$1,085	−$87,027	−$90,640	Accounts for costs otherwise spent on second appeals.
Arbitration Sponsor	N/A	N/A	$600,000	$600,000	Independent panel decision improves perception of objectivity and adds to acceptance of decision.
Overarching	N/A	N/A	N/A	N/A	Increases flexibility for applicant recourse, speed at which disputes are resolved, and provides information that can be used to determine if arbitration should be a permanent option.
Total	$401,142	$60,937	$930,068	$1,392,147	

Based on the Dispute Resolution Pilot Program annual average costs above, FEMA calculates a total pilot program cost of $3,480,368 over the DRPP's duration: $3,213,101 discounted at 7 percent ($1,445,344 annualized) and $3,359,905 discounted at 3 percent ($1,415,041 annualized). See Table 4 for details.

TABLE 4—DISPUTE RESOLUTION PILOT PROGRAM TOTAL COSTS

Year [1]	Applicant	Grantee	FEMA	Total	7% Discount [2]	3% Discount [3]
2013	$200,571	$30,469	$465,034	$696,074	$696,074	$696,074
2014	401,142	60,937	930,068	1,392,147	1,301,072	1,351,599
2015	401,142	60,937	930,068	1,392,147	1,215,955	1,312,232
Total	1,002,855	152,343	2,325,170	3,480,368	3,213,101	3,359,905
Annualized					1,445,344	1,415,041

[1] Year 2013 only contains 6 months of activity; thus half the annual average cost. Also, as the rule is expected to be published in 2013; the associated discount equates to 1 which does not change 2013 dollar values.
[2] 7% Discount = Total × (1/(1 + 0.07) − (year-2013).
[3] 3% Discount = Total × (1/(1 + 0.03) − (year-2013).

The anticipated overarching benefits of the pilot include increased flexibility and the perception of objectivity, which likely increases acceptance of final decisions. In addition, the time to resolve disputes may be faster than the current second appeal process. For instance, when comparing maximum process step timeframes for second appeals (44 CFR 206.206) and maximum process step timelines identified in this rule, the total number of days for arbitration with an oral hearing (225 days) versus a second appeal with one additional information request (270 days) is 45 days faster (270 days − 225 days = 45 days). Furthermore, the information gathered from the pilot will inform the Comptroller General's recommendation to Congress on whether an arbitration program should be implemented permanently. See Table 5 for a comparison of pilot program net costs and benefits.

TABLE 5—COMPARISON OF DISPUTE RESOLUTION PILOT PROGRAM NET COSTS AND BENEFITS

Year [1]	Total	7% Discount [2]	3% Discount [3]	Benefits
2013	$696,074	$696,074	$696,074	Provides flexibility for applicant recourse and likely increases applicant satisfaction through use of an independent panel.
2014	1,392,147	1,301,072	1,351,599	Institutes a streamlined process that clearly identifies areas/issues in dispute and encourages use of arbitration, when appropriate, thereby increasing speed at which disputes are resolved.
2015	1,392,147	1,215,955	1,312,232	Information from pilot will help determine if arbitration should be a permanent option.
Total	3,480,368	3,213,101	3,359,905	
Annualized		1,445,344	1,415,041	

[1] Year 2013 only contains 6 months of activity; thus half the annual average cost. Also, as the rule is expected to be published in 2013; the associated discount equates to 1 which does not change 2013 dollar values.
[2] 7% Discount = Total × (1/(1 + 0.07) − (year-2013)).
[3] 3% Discount = Total × (1/(1 + 0.03) − (year-2013)).

While the provision of arbitration by a panel is statutorily mandated, based on the subsequent analysis, FEMA believes that the benefits of the rule justify the costs.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), and section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 858–9 (Mar. 29, 1996) (5 U.S.C. 601 note) require that special consideration be given to the effects of proposed regulations on small entities. The RFA mandates that an agency conduct an RFA analysis when an agency is ''required by section 553 . . . to publish general notice of proposed rulemaking for any proposed rule.'' 5 U.S.C. 603(a). An RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). FEMA has determined that this rule is exempt from notice and comment rulemaking because it is a rule of agency procedure. See 5 U.S.C. 553(b)(3)(A). Therefore, an RFA analysis under 5 U.S.C. 603 is not required for this rule.

As previously discussed, this rule establishes the procedures for a Dispute Resolution Pilot Program at 44 CFR 206.210, which provides an option for applicants in the FEMA Public Assistance Program to file for arbitration when they want to dispute a FEMA eligibility determination that involves an amount in dispute greater than or equal to $1,000,000. This rule is entirely voluntary and has no mandatory costs to affected applicants.

D. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. As the final rule would not have an impact greater than $100,000,000 or more in any one year, it is not an unfunded Federal mandate.

E. Paperwork Reduction Act (PRA) of 1995

As required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat. 163, (May 22, 1995) (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The information collection in this rule is approved by OMB under control number 1660–0017, Public Assistance Program.

F. National Environmental Policy Act (NEPA) of 1969

Section 102 of the National Environmental Policy Act of 1969 (NEPA), Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*) requires agencies to consider the impacts in their decision-making on the quality of the human environment. The Council on Environmental Quality's procedures for implementing NEPA, 40 CFR 1500 through 1508, require Federal agencies to prepare Environmental Impact Statements (EIS) for major Federal actions significantly affecting the quality of the human environment. Each agency can develop categorical exclusions to cover actions that typically do not trigger significant impacts to the human environment individually or cumulatively. Agencies develop environmental assessments (EA) to evaluate those actions that do not fit an agency's categorical exclusion and for which the need for an EIS is not readily apparent. At the end of the EA process the agency will determine whether to make a Finding of No Significant Impact or whether to initiate the EIS process.

Rulemaking is a major Federal action subject to NEPA. The List of exclusion categories at 44 CFR 10.8(d)(2)(ii) excludes the preparation, revision, and adoption of regulations from the preparation of an EA or EIS, where the rule relates to actions that qualify for categorical exclusions.

Action taken or assistance provided under sections 403, 406, and 407 of the Stafford Act are statutorily excluded from NEPA and the preparation of EIS and EA by section 316 of the Stafford Act. 42 U.S.C. 5159; 44 CFR 10.8(c). NEPA implementing regulations governing FEMA activities at 44 CFR 10.8(d)(2)(ii) categorically exclude the preparation, revision, and adoption of regulations from the preparation of an EA or EIS, where the rule relates to actions that qualify for categorical exclusions. Action taken or assistance provided under sections 403 and 407 of the Stafford Act are categorically excluded under 44 CFR 10.8(d)(2)(xix). This final rule establishes an option for arbitration under FEMA's Public Assistance Program. Arbitration is an administrative action for FEMA's Public Assistance Program. Therefore, the activity this rule applies to meets FEMA's Categorical Exclusion in 44 CFR 10.8(d)(2)(i). Because no other extraordinary circumstances have been identified, this rule does not require the preparation of either an EA or an EIS as defined by NEPA.

G. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments,'' 65 FR 67249, Nov. 9, 2000, applies to agency regulations that have Tribal implications, that is, regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Under this Executive Order, to the extent practicable and permitted by law, no agency will promulgate any regulation that has Tribal implications, that imposes substantial direct compliance costs on Indian Tribal governments, and that is not required by statute, unless funds necessary to pay the direct costs incurred by the Indian Tribal government or the Tribe in complying with the regulation are provided by the Federal Government, or the agency consults with Tribal officials.

Indian Tribes have the same opportunity to participate in the DRPP as other eligible applicants; however, given the participation criteria of the DRPP and its voluntary nature, FEMA estimates only 10 to 30 requests for arbitration, per year, until the DRPP sunsets. As such, FEMA anticipates a very small number, if any Indian Tribes, will participate in the voluntary DRPP before it sunsets. As a result, FEMA does not expect the DRPP to have a substantial direct effect on one or more Indian tribes or impose direct compliance costs on Indian Tribal governments. Additionally, since FEMA anticipates a very small number, if any Indian Tribes will participate in the voluntary DRPP, FEMA does not expect the regulations to have substantial direct effects on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, FEMA finds that this final rule complies with Executive Order 13175.

H. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. FEMA has analyzed this final rule under Executive Order 13132 and determined that it does not have implications for federalism.

I. Executive Order 12630, Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights'' (53 FR 8859, Mar. 18, 1988).

J. Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended, ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, Feb. 16, 1994), FEMA incorporates environmental justice into its policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level.

Implementation of section 1105 of SRIA will facilitate an efficient recovery from major disasters, including arbitration by an independent review panel, to resolve disputes relating to Public Assistance projects. This rulemaking deals only with Public Assistance projects, which provide for Federal funds for debris removal, emergency protective measures, and permanent restoration of infrastructure does not provide Federal funds directly to persons. Accordingly, this rulemaking does not implicate the Executive Order's provisions related to discrimination.

No action that FEMA can anticipate under this rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population.

K. Executive Order 12988, Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, Feb. 7, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

L. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This rule will not create environmental health risks or safety risks for children under Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, Apr. 23, 1997).

M. Congressional Review Act

FEMA has sent this final rule to the Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act, (''Congressional Review Act''), Public Law 104–121, 110 Stat. 873 (Mar. 29, 1996) (5 U.S.C. 804). This rule is not a ''major rule'' within the meaning of the Congressional Review Act.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs-housing and community development, Housing, Insurance, Intergovernmental relations, Loan programs—housing and community development, Natural resources, Penalties, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Federal Emergency Management Agency amends 44 CFR part 206, subpart G, as follows:

PART 206—FEDERAL DISASTER ASSISTANCE

■ 1. The authority citation for part 206 is revised to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207; Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.;* Department of Homeland Security Delegation 9001.1; sec. 1105, Pub. L. 113–2, 127 Stat. 43 (42 U.S.C. 5189a note).

■ 2. Add § 206.210 to read as follows:

§ 206.210 Dispute Resolution Pilot Program.

(a) *Scope.* Pursuant to section 1105 of the Sandy Recovery Improvement Act of 2013, Public Law 113–2, this section establishes procedures for a Dispute Resolution Pilot Program under which an applicant or subgrantee (hereinafter ''applicant'' for purposes of this section) may request the use of binding arbitration by a panel to resolve disputes arising under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173).

(b) *Definitions.* In this section, the following definitions apply:

Administrative record means all the documents and materials directly or indirectly considered by the agency and relied upon in making the first appeal determination pursuant to § 206.206. This record may include, but is not limited to, Project Worksheets (all versions) and supporting backup documentation, correspondence, photographs, and technical reports.

Applicant is used throughout this regulation text and refers to the definition in FEMA's regulations at 44 CFR 206.201(a).

Arbitration sponsor means the entity or entities FEMA selects to administer the arbitrations requested under this rule.

Frivolous means the applicant knew or reasonably should have known that its actions lack an arguable basis in law, policy, or in fact.

Grantee is used throughout this regulation text and it refers to the definition in FEMA's regulations at 44 CFR 206.201(e).

Legitimate amount in dispute means the difference between the amount of grant funding sought by the applicant for a project as reimbursable under the Public Assistance Program and the amount of grant funding which FEMA has determined eligible for a project under the Public Assistance Program.

Non-Federal share means that the project is not 100% federally funded and the applicant or grantee bear a percentage of the costs pursuant to the cost sharing provisions established in the FEMA-State Agreement and the Stafford Act;

Notice means actual notice that is transmitted to and received by a representative of the applicant either via regular mail, facsimile, or electronic transmission. The notice may be transmitted simultaneously to the grantee and the applicant.

Panel means an independent review panel referenced in section 1105(b)(1) of SRIA. A panel consists of three members who are qualified to review and resolve disputes under section 1105 of the SRIA.

(c) *Applicability.* This section applies to an applicant that wants to request arbitration of a determination FEMA has previously made on an applicant's application for Public Assistance for disasters declared on or after October 30, 2012. The following criteria apply:

(1) The legitimate amount in dispute is equal to or greater than $1,000,000, which sum the FEMA Administrator will adjust annually via a **Federal Register** Notice to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor;

(2) The applicant bears a non-Federal share of the cost; and,

(3) The applicant has received a decision on a first appeal, but not a decision on a second appeal, pursuant to § 206.206.

(d) *Governing rules.* The arbitration will be governed by applicable requirements in section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173) and the interpretations of those sections of the Stafford Act.

(e) *Limitations*—(1) *Date of disaster.* FEMA can only consider an applicant's Request for Arbitration of a public assistance grant for disasters declared on or after October 30, 2012.

(2) *Election of remedies.* An applicant can only request arbitration under this section if the applicant has not previously filed a second appeal under § 206.206. If an applicant requests arbitration under this section, the applicant waives the option of filing a second appeal under § 206.206.

(3) *Final agency action under § 206.206.* Arbitration under this section is not available for any request submitted by an applicant for which FEMA issued a final agency action in the form of a decision on a second appeal pursuant to § 206.206.

(f) *Request for Arbitration.* (1) An applicant who is dissatisfied with a decision on a first appeal may initiate binding arbitration by submitting a Request for Arbitration simultaneously to the grantee, the arbitration sponsor and FEMA.

(2) An applicant must submit the Request for Arbitration no later than 15 calendar days of applicant's receipt of notice of the first appeal decision that is the subject of the arbitration request.

(g) *Administrative record.* Within 15 calendar days of receipt of the Request for Arbitration, FEMA will simultaneously provide a copy of the administrative record to the arbitration sponsor, the applicant and the grantee.

(h) *Submissions related to arbitration*—(1) *Grantee recommendation.*

(i) Within 15 calendar days of receipt of the Request for Arbitration, the grantee must forward to FEMA the name and address of the grantee's authorized representative.

(ii) The grantee may submit a written recommendation in support or opposition of the applicant's claim via electronic submission simultaneously to the applicant, the arbitration sponsor, and FEMA.

(2) *Applicant statement of claim.* (i) Within 30 calendar days of applicant's receipt of the administrative record, the

applicant must submit a written arbitration statement of claim that makes the circumstances of the dispute clear. The written arbitration statement of claim must include sufficient detail and citation to supporting documents from the administrative record and specific section references, so that the circumstances of the dispute are clear.

(ii) The applicant will only include issues directly raised and decided in the first appeal and will also cite to applicable statutes, regulations, policies, or guidance in support of their claim.

(iii) The applicant must provide the written statement of claim via electronic submission simultaneously to FEMA, the grantee, and the arbitration sponsor.

(3) *FEMA response.* Within 30 calendar days of receipt of the applicant's statement of claim, FEMA will submit a memorandum in support of its position and the name and address of its authorized representative via electronic submission simultaneously to the arbitration sponsor, the grantee, and the applicant.

(i) *Selection of panel.* The arbitration sponsor will select the panel. All arbitrators must be neutral, independent, and impartial.

(j) *Challenge of arbitrator(s).* Any arbitrator may be challenged by a party, if circumstances exist that give rise to justifiable doubt as to the arbitrator's impartiality or independence.

(1) A party challenging an arbitrator will send notice stating the reasons for the challenge within 15 calendar days after being notified of that arbitrator's appointment or after becoming aware of the circumstances that give rise to the party's justifiable doubt as to that arbitrator's impartiality or independence.

(2) When an arbitrator has been challenged by a party, the other party will have the right to respond to the challenge within 15 calendar days after receipt of the notice of the challenge.

(3) The other party may agree to the challenge and in such circumstances the arbitration sponsor will appoint a replacement arbitrator. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the arbitration sponsor. If the arbitration sponsor orders the withdrawal of the challenged arbitrator, the arbitrator sponsor will appoint a replacement arbitrator.

(k) *Preliminary administrative conference.* The panel will hold a preliminary administrative conference with the parties and/or representatives of the parties within 15 calendar days of the panel's receipt of FEMA's response to the applicant's statement of claim. The panel and the parties will discuss the future conduct of the arbitration, including clarification of the disputed issues, request for disqualification of an arbitrator (if applicable), and any other preliminary matters. The panel will provide the parties with the opportunity to request a hearing and, if requested,

(1) A party must request a hearing to the panel no later than the time of the preliminary administrative conference.

(2) If a hearing is requested, the panel will set the date and place of any hearing and set a deadline for the parties to exchange witness lists. Within 10 calendar days of the preliminary conference, the independent review panel will issue a scheduling order which memorializes the matters heard at the conference and the upcoming deadlines.

(l) *Jurisdictional and arbitrability challenges.* Any party may raise a jurisdictional or arbitrability challenge at any time during the arbitration.

(1) When jurisdiction or arbitrability has been challenged by a party, the other party will have the right to respond to the challenge within 15 calendar days after receipt of the notice of the challenge.

(2) The panel may suspend or continue the arbitration proceedings during the pendency of the challenge. The panel must rule upon the challenge prior to any hearing in the matter and will dismiss any matter that is untimely or outside the panel's jurisdiction. The panel's dismissal will be with prejudice and there will be no further arbitration of the issue giving rise to the Request for Arbitration.

(m) *Hearing*—(1) *Request for hearing.* The panel will provide the applicant and FEMA with an opportunity to make an oral presentation on the substance of the applicant's claim, by telephone conference, or other means during which all parties may simultaneously hear all other participants.

(2) *Location of hearing.* If an in-person hearing is requested and authorized by the panel, it will be held at a hearing facility of the panel's choosing.

(3) *Conduct of hearing.* Each party must present its position at the hearing through oral presentations by witnesses the party has identified pursuant to the deadline and terms established by the panel. The presentations will only relate to those issues raised and decided in the first appeal and only reference documents included in the administrative record.

(4) *Time limits.* The panel should hold the hearing within 60 calendar days of the preliminary conference.

(5) *Postponement or continuance.* The panel may postpone or continue a hearing upon agreement of the parties, or upon request of a party for good cause shown. Within 10 calendar days of the date the panel grants a party's request for postponement or continuance, the panel will notify the parties of the rescheduled date of the hearing.

(6) *Transcript of the hearing.* A party may specifically request and arrange for a written transcript of the hearing at its own expense.

(n) *Standard of review.* The panel will only set aside the agency determination if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. In the case of a FEMA finding of material fact adverse to the applicant on the first appeal, the panel will only set aside or reverse such a finding if the finding was clearly erroneous.

(o) *Ex parte communications.* No party will have any ex parte communication with the arbitrators unless the parties agree otherwise. If a party violates this provision, the panel will ensure that a memorandum of the communication is included in the record and that an opportunity for rebuttal is allowed. The panel may require the party who engages in an unauthorized ex parte communication, to show cause why the issue should not be resolved against it for the improper conduct.

(p) *Decision*—(1) *Time limits.*

(i) The panel will issue a written decision within 60 calendar days from the conclusion of the hearing.

(ii) If a hearing was not requested and approved, the panel will issue a written decision within 60 calendar days from the preliminary administrative conference.

(2) *Form and content.* The panel will issue a reasoned decision that includes findings of fact and conclusions of law that will set forth the reasons for the decision, with citations to the record or testimony taken during the hearing under this section which support the panel's disposition of a decision. The majority decision of the panel will be in writing, signed by each member of the panel in agreement with the decision. A dissenting member of the panel may issue a separate written dissent that will set forth the reasons for the dissent.

(3) *Finality of decision.* A decision of the majority of the panel will constitute a final decision, binding on all parties, but will not be binding precedent for any future arbitration hearings or FEMA administrative decisions. Final decisions are not subject to further administrative review. Final decisions are not subject to judicial review, except as permitted by 9 U.S.C. 10.

(4) *Delivery of decision.* The panel will deliver its decision via simultaneous electronic submission to each party or its authorized representative.

(q) *Costs*—(1) *Fees.* FEMA will pay all fees associated with the independent review panel, including arbitrator compensation, and the arbitration facility costs.

(2) *Expenses.* Expenses for each party will be paid by the party who incurred the expense.

(r) *Frivolous requests.* If, upon notification by FEMA, or on its own initiative the panel determines the applicant's Request for Arbitration to be frivolous, the panel will deny the Request for Arbitration and direct the applicant to reimburse FEMA for reasonable costs FEMA incurred, including fees and expenses.

(s) *Deadline.* FEMA cannot consider an applicant's request for review by a panel under this section if the request is made after December 31, 2015. However, pursuant to this rule, FEMA will continue to process and finalize any proper request made on or before December 31, 2015.

Dated: August 8, 2013.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–19887 Filed 8–15–13; 8:45 am]

BILLING CODE 9111–23–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1037, 1039, 1042, and 1068

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 535

[EPA–HQ–OAR–2012–0102; NHTSA–2012–0152; FRL 9900–11–OAR]

RIN 2060–AR48; 2127–AL31

Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments

AGENCIES: Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Partial withdrawal of direct final rule; direct final rule.

SUMMARY: Because EPA and NHTSA, on behalf of the Department of Transportation, received adverse comment on certain elements of the Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments direct final rule published on June 17, 2013, we are withdrawing those elements of the direct final rule and republishing the affected sections without those elements.

DATES: Effective August 16, 2013, EPA withdraws the amendments to 40 CFR 1037.104, 037.150, 1039.104, 1039.625, 1042.615, and 1068.240 published at 78 FR 36388 on June 17, 2013, and NHTSA withdraws the amendment to 49 CFR 535.5 published at 78 FR 36388 on June 17, 2013. The direct final rule amendments are effective August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Lily Smith, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone: (202) 366–2992. Angela Cullen, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734–214–4419; email address: *cullen.angela@epa.gov.*

SUPPLEMENTARY INFORMATION: Because EPA and NHTSA received adverse comment on certain elements of the Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments direct final rule published on June 17, 2013, at 78 FR 36370, we are withdrawing those elements of the direct final rule and republishing the affected sections without those elements. The withdrawal relates to four principal EPA provisions and one principal NHTSA provision. The EPA provisions are: (1) Test requirements for heavy-duty greenhouse gas emissions in 40 CFR part 1037, (2) optional chassis certification for heavy-duty greenhouse gas emissions in 40 CFR part 1037, (3) expanded technical hardship for equipment manufacturers installing nonroad diesel engines, and (4) the replacement engine exemption in 40 CFR part 1068, along with the corresponding changes to 40 CFR 1042.615. The NHTSA withdrawal relates to the provision for optional chassis certification for heavy-duty fuel efficiency requirements in 49 CFR 535.5(a)(6).

We stated in the direct final rule that if we received adverse comment by July 17, 2013 as to any part of the direct final rule, those parts would be withdrawn by publishing a timely notice in the **Federal Register**. Because EPA and NHTSA received adverse comment related to certain provisions, we are withdrawing those amendments and they will not take effect. The specific provisions that are being withdrawn are identified below. To avoid any confusion with respect to 40 CFR 1068.240, concerning an exemption for replacement nonroad engines, the effect of this withdrawal is that the current provisions of that section remain in effect through § 1068.240(d). The direct final rule also republished paragraphs (e) and (f) and removed paragraph (g) of § 1068.240, and these are not being withdrawn.

EPA published a parallel proposed rule on the same day as the direct final rule. The proposed rule invited comment on the substance of the direct final rule with respect to EPA's amendments to 40 CFR parts 1037, 1039, 1042, and 1068. EPA intends to consider the comments received and proceed with a new final rule, including but not limited to addressing the amendments that relate to replacement nonroad engines that are withdrawn by this notice. As stated in the parallel proposal, EPA will not institute a second comment period for the proposed action with respect to the provisions that are withdrawn by this notice. One adverse comment relates to EPA's provision in 40 CFR 1037.150(l) and NHTSA's provision in 49 CFR 535.5(a) (6). NHTSA may issue a notice of proposed rulemaking (NPRM) and provide another opportunity to comment for the withdrawn amendment to 49 CFR 535.5(a) (6). Both agencies would coordinate any final actions on 40 CFR 1037.150(l) and 49 CFR 535.5(a) (6). The amendments for which we did not receive adverse comment are not being withdrawn and will become effective on August 16, 2013, as provided in the June 17, 2013 direct final rule.

Accordingly, the amendments to 40 CFR 1037.104(d)(9)(i), 1037.104(d)(9)(iii), 1037.104(g)(3)(iv), 1037.104(g)(7), 1037.150(l), 1039.104(g), 1039.625(m), 1042.615, and 1068.240 introductory text and paragraphs (a) through (d) published on June 17, 2013 (78 FR 36388), are withdrawn by EPA as of August 16, 2013, and the amendment to 49 CFR 535.5 published on June 17, 2013 (78 FR 36388) is withdrawn by DOT as of August 16, 2013.

List of Subjects

40 CFR Part 1037

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1039

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1042

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

40 CFR Part 1068

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

49 CFR Part 535

Fuel economy.

Title 40—Protection of Environment

For the reasons set forth in the preamble, the Environmental Protection Agency is amending title 40, chapter I of the Code of Federal Regulations as follows:

PART 1037—CONTROL OF EMISSIONS FROM NEW HEAVY-DUTY MOTOR VEHICLES

■ 1. The authority citation for part 1037 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

■ 2. Section 1037.104 is amended by:
■ a. Revising paragraphs (a)(2) introductory text, (d)(2), (4), and (6), (9), and (d)(12) and (13);
■ b. Adding paragraph (d)(15); and
■ c. Revising paragraph (g).

The revisions and addition read as follows:

§ 1037.104 Exhaust emission standards for CO_2, CH_4, and N_2O for heavy-duty vehicles at or below 14,000 pounds GVWR.

* * * * *

(a) * * *

(2) Using the appropriate work factor, calculate a target value for each vehicle subconfiguration (or group of subconfigurations allowed under paragraph (a)(4) of this section) you produce using one of the following equations, or the phase-in provisions in § 1037.150(b), rounding to the nearest 0.1 g/mile:

* * * * *

(d) * * *

(2) The following general credit provisions apply:

(i) Credits you generate under this section may be used only to offset credit deficits under this section. You may bank credits for use in a future model year in which your average CO_2 level exceeds the standard. You may trade credits to another manufacturer according to 40 CFR 86.1865–12(k)(8). Before you bank or trade credits, you must apply any available credits to offset a deficit if the deadline to offset that credit deficit has not yet passed.

(ii) Vehicles subject to the standards of this section are included in a single greenhouse gas averaging set separate from any averaging set otherwise included in 40 CFR part 86.

(iii) Banked CO_2 credits keep their full value for five model years after the year in which they were generated. Unused credits expire at the end of this fifth model year.

* * * * *

(4) The CO_2, N_2O, and CH_4 standards apply for a weighted average of the city (55%) and highway (45%) test cycle results. Note that this differs from the way the criteria pollutant standards apply for heavy-duty vehicles.

* * * * *

(6) Credits are calculated using the useful life value (in miles) in place of ''vehicle lifetime miles'' specified in 40 CFR part 86, subpart S. Calculate a total credit or debit balance in a model year by adding credits and debits from 40 CFR 86.1865–12(k)(4), subtracting any CO_2-equivalent debits for N_2O or CH_4 calculated according to § 1037.104(c), and adding any of the following credits:

(i) Advanced technology credits according to paragraph (d)(7) of this section and § 1037.150(i).

(ii) Innovative technology credits according to paragraph (d)(13) of this section.

(iii) Early credits according to § 1037.150(a)(2).

* * * * *

(9) Calculate your fleet-average emission rate consistent with good engineering judgment and the provisions of 40 CFR 86.1865. The following additional provisions apply:

(i) Unless we approve a lower number, you must test at least ten subconfigurations. If you produce more than 100 subconfigurations in a given model year, you must test at least ten percent of your subconfigurations. For purposes of this paragraph (d)(9)(i), count carryover tests, but do not include analytically derived CO_2 emission rates, data substitutions, or other untested allowances. We may approve a lower number of tests for manufacturers that have limited product offerings, or low sales volumes. Note that good engineering judgment and other provisions of this part may require you to test more subconfigurations than these minimum values.

(ii) The provisions of paragraph (g) of this section specify how you may use analytically derived CO_2 emission rates.

(iii) At least 90 percent of final production volume at the configuration level must be represented by test data (real, data substituted, or analytical).

(iv) Perform fleet-average CO_2 calculations as described in 40 CFR 86.1865 and 40 CFR part 600, with the following exceptions:

(A) Use CO_2 emissions values for all test results, intermediate calculations, and fleet average calculations instead of the carbon-related exhaust emission (CREE) values specified in 40 CFR parts 86 and 600.

(B) Perform intermediate CO_2 calculations for subconfigurations within each configuration using the subconfiguration and configuration definitions in paragraph (d)(12) of this section.

(C) Perform intermediate CO_2 calculations for configurations within each test group and transmission type (instead of configurations within each base level and base levels within each model type). Use the configuration definition in paragraph (d)(12)(i) of this section.

(D) Do not perform intermediate CO_2 calculations for each base level or for each model type. Base level and model type CO_2 calculations are not applicable to heavy-duty vehicles subject to standards in this section.

(E) Determine fleet average CO_2 emissions for heavy-duty vehicles subject to standards in this section as described in 40 CFR 600.510–12(j), except that the calculations must be performed on the basis of test group and transmission type (instead of the model-type basis specified in the light-duty vehicle regulations), and the calculations for dual fuel, multi-fuel, and flexible fuel vehicles must be consistent with the provisions of paragraph (d)(10)(i) of this section.

* * * * *

(12) The following definitions apply for the purposes of this section:

(i) Configuration means a subclassification within a test group based on engine code, transmission type and gear ratios, final drive ratio, and other parameters we designate. Transmission type means the basic type of the transmission (e.g., automatic, manual, automated manual, semi-automatic, or continuously variable) and

does not include the drive system of the vehicle (e.g., front-wheel drive, rear-wheel drive, or four-wheel drive). Engine code means the combination of both ''engine code'' and ''basic engine'' as defined in 40 CFR 600.002. Note that this definition differs from the one in 40 CFR 86.1803.

(ii) Subconfiguration means a unique combination within a vehicle configuration (as defined in this paragraph (d)(12)) of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters that we determine may significantly affect CO_2 emissions within a vehicle configuration. Note that for vehicles subject to standards of this section, equivalent test weight (ETW) is based on the ALVW of the vehicle as outlined in paragraph (d)(11) of this section.

(iii) The terms ''complete vehicle'' and ''incomplete vehicle'' have the meanings given for ''complete heavy-duty vehicle'' and ''incomplete heavy-duty vehicle'', respectively, in 40 CFR 86.1803.

(13) This paragraph (d)(13) applies for CO_2 reductions resulting from technologies that were not in common use before 2010 that are not reflected in the specified test procedures. We may allow you to generate emission credits consistent with the provisions of 40 CFR 86.1869–12(c) and (d). You do not need to provide justification for not using the 5-cycle methodology.

* * * * *

(15) You must submit a final report within 90 days after the end of the model year. Unless we specify otherwise, include applicable information identified in 40 CFR 86.1865–12(l), 40 CFR 600.512, and 49 CFR 535.8(e). The final report must include at least the following information:

(i) Model year.

(ii) Applicable fleet-average CO_2 standard.

(iii) Calculated fleet-average CO_2 value and all the values required to calculate the CO_2 value.

(iv) Number of credits or debits incurred and all values required to calculate those values.

(v) Resulting balance of credits or debits.

(vi) N_2O emissions.

(vii) CH_4 emissions.

(viii) HFC leakage score.

* * * * *

(g) Analytically derived CO_2 emission rates (ADCs). This paragraph (g) describes an allowance to use estimated (i.e., analytically derived) CO_2 emission rates based on baseline test data instead of measured emission rates for calculating fleet-average emissions. Note that these ADCs are similar to ADFEs used for light-duty vehicles. Note also that F terms used in this paragraph (g) represent coefficients from the following road load equation:

$$Force - (mass \times acceleration) = F0 + F1 \cdot (velocity) + F2 \cdot (velocity) + F2 \cdot (velocity)^2$$

(1) Except as specified in paragraph (g)(2) of this section, use the following equation to calculate the ADC of a new vehicle from road load force coefficients (F0, F1, F2), axle ratio, and test weight:

$$ADC = CO_{2base} + 2.18 \cdot \Delta F0 + 37.4 \cdot \Delta F1 + 2257 \cdot \Delta F2 + 189 \cdot \Delta AR + 0.0222 \cdot \Delta ETW$$

Where:

ADC = Analytically derived combined city/highway CO_2 emission rate (g/mile) for a new vehicle.

CO_{2base} = Combined city/highway CO_2 emission rate (g/mile) of a baseline vehicle.

ΔF0 = F0 of the new vehicle − F0 of the baseline vehicle.

ΔF1 = F1 of the new vehicle − F1 of the baseline vehicle.

ΔF2 = F2 of the new vehicle − F2 of the baseline vehicle.

ΔAR = Axle ratio of the new vehicle − axle ratio of the baseline vehicle.

ΔETW = ETW of the new vehicle − ETW of the baseline vehicle.

(2) The purpose of this section is to accurately estimate CO_2 emission rates.

(i) You must apply the provisions of this section consistent with good engineering judgment. For example, do not use the equation in paragraph (g)(1) of this section where good engineering judgment indicates that it will not accurately estimate emissions. You may ask us to approve alternate equations that allow you to estimate emissions more accurately.

(ii) The analytically derived CO_2 equation in paragraph (g)(1) of this section may be periodically updated through publication of an EPA guidance document to more accurately characterize CO_2 emission levels for example, changes may be appropriate based on new test data, future technology changes, or to changes in future CO_2 emission levels. Any EPA guidance document will determine the model year that the updated equation takes effect. We will issue guidance no later than eight months before the effective model year. For example, for 2014 models, the model year may start January 2, 2013, so guidance would be issued by May 1, 2012 for model year 2014.

(3) You may select, without our advance approval, baseline test data if they meet all the following criteria:

(i) Vehicles considered for the baseline test must comply with all applicable emission standards in the model year associated with the ADC.

(ii) You must include in the pool of tests considered for baseline selection all official tests of the same or equivalent basic engine, transmission class, engine code, transmission code, engine horsepower, dynamometer drive wheels, and compression ratio as the ADC subconfiguration. Do not include tests in which emissions exceed any applicable standard.

(iii) Where necessary to minimize the CO_2 adjustment, you may supplement the pool with tests associated with worst-case engine or transmission codes and carryover or carry-across engine families. If you do, all the data that qualify for inclusion using the elected worst-case substitution (or carryover or carry-across) must be included in the pool as supplemental data (i.e., individual test vehicles may not be selected for inclusion). You must also include the supplemental data in all subsequent pools, where applicable.

(iv) Tests previously used during the subject model year as baseline tests in ten other ADC subconfigurations must be eliminated from the pool.

(v) Select the tested subconfiguration with the smallest absolute difference between the ADC and the test CO_2 emission rate for combined emissions. Use this as the baseline test for the target ADC subconfiguration.

(4) You may ask us to allow you to use baseline test data not fully meeting the provisions of paragraph (g)(3) of this section.

(5) Calculate the ADC rounded to the nearest 0.1 g/mile. Except with our advance approval, the downward adjustment of ADC from the baseline is limited to ADC values 20 percent below the baseline emission rate. The upward adjustment is not limited.

(6) You may not submit an ADC if an actual test has been run on the target subconfiguration during the certification process or on a development vehicle that is eligible to be declared as an emission-data vehicle.

(7) No more than 40 percent of the subconfigurations tested in your final CO_2 submission may be represented by ADCs.

(8) Keep the following records for at least five years, and show them to us if we ask to see them:

(i) The pool of tests.

(ii) The vehicle description and tests chosen as the baseline and the basis for the selection.

(iii) The target ADC subconfiguration.

(iv) The calculated emission rates.

(9) We may perform or order a confirmatory test of any subconfiguration covered by an ADC.

(10) Where we determine that you did not fully comply with the provisions of this paragraph (g), we may require that you comply based on actual test data and that you recalculate your fleet-average emission rate.

* * * * *

■ 3. Section 1037.150 is amended by revising paragraph (a)(2) to read as follows:

§ 1037.150 Interim provisions.

* * * * *

(a) * * *

(2) This paragraph (a)(2) applies for regulatory sub-categories subject to the standards of § 1037.104. To generate early credits under this paragraph (a)(2) for any vehicles other than electric vehicles, you must certify your entire U.S.-directed fleet to these standards. If you calculate a separate fleet average for advanced-technology vehicles under § 1037.104(c)(7), you must certify your entire U.S.-directed production volume of both advanced and conventional vehicles within the fleet. Except as specified in paragraph (a)(4) of this section, if some test groups are certified after the start of the model year, you may generate credits only for production that occurs after all test groups are certified. For example, if you produce three test groups in an averaging set and you receive your certificates for those test groups on January 4, 2013, March 15, 2013, and April 24, 2013, you may not generate credits for model year 2013 for vehicles from any of the test groups produced before April 24, 2013. Calculate credits relative to the standard that would apply in model year 2014 using the applicable equations in 40 CFR part 86 and your model year 2013 U.S.-directed production volumes. These credits may be used to show compliance with the standards of this part for 2014 and later model years. We recommend that you notify us of your intent to use this provision before submitting your applications.

* * * * *

PART 1039—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD COMPRESSION-IGNITION ENGINES

■ 4. The authority citation for part 1039 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart G—[Amended]

■ 5. Section 1039.625 is amended by revising paragraphs (e) and (j) introductory text to read as follows:

§ 1039.625 What requirements apply under the program for equipment-manufacturer flexibility?

* * * * *

(e) *Standards.* If you produce equipment with exempted engines under this section, the engines must meet emission standards specified in this paragraph (e), or more stringent standards. Note that we consider engines to be meeting emission standards even if they are certified with a family emission limit that is higher than the emission standard that would otherwise apply.

(1) If you are using the provisions of paragraph (d)(4) of this section, engines must meet the applicable Tier 1 or Tier 2 emission standards described in 40 CFR 89.112.

(2) If you are using the provisions of paragraph (a)(2) of this section, engines must be identical in all material respects to engines certified under this part 1039 as follows:

Engines in the following power category. . .	Must meet all standards and requirements that applied in the following model year. . .
(i) 19 ≤ kW < 56	2008 (Option 1, where applicable).
(ii) 56 ≤ kW < 130	2012 (Phase-out).
(iii) 130 ≤ kW ≤ 560 ..	2011 (Phase-out).
(iv) kW > 560	2011.

(3) In all other cases, engines at or above 56 kW and at or below 560 kW must meet the appropriate Tier 3 standards described in 40 CFR 89.112.

* * * * *

(j) *Provisions for engine manufacturers.* As an engine manufacturer, you may produce exempted engines as needed under this section. You do not have to request this exemption for your engines, but you must have written assurance from equipment manufacturers that they need a certain number of exempted engines under this section. Send us an annual report of the engines you produce under this section, as described in § 1039.250(a). Exempt engines must meet the emission standards in paragraph (e) of this section and you must meet all the requirements of 40 CFR 1068.265, except that engines produced under the provisions of paragraph (a)(2) of this section must be identical in all material respects to engines previously certified under this part 1039. If you show under 40 CFR 1068.265(c) that the engines are identical in all material respects to engines that you have previously certified to one or more FELs above the standards specified in paragraph (e) of this section, you must supply sufficient credits for these engines. Calculate these credits under subpart H of this part using the previously certified FELs and the alternate standards. You must meet the labeling requirements in 40 CFR 89.110 or § 1039.135, as applicable, with the following exceptions:

* * * * *

PART 1068—GENERAL COMPLIANCE PROVISIONS FOR HIGHWAY, STATIONARY, AND NONROAD PROGRAMS

■ 6. The authority citation for part 1068 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Exemptions and Exclusions

§ 1068.240 [Amended]

■ 7. Section 1068.240 is amended by removing paragraph (g).

Title 49—Transportation

For the reasons set forth in the preamble, the National Highway Traffic Safety Administration is amending title 49, chapter V, of the Code of Federal Regulations as follows:

PART 535—MEDIUM- AND HEAVY-DUTY VEHICLE FUEL EFFICIENCY PROGRAM

■ 8. The authority citation for part 535 is revised to read as follows:

Authority: 49 U.S.C 32901, delegation of authority at 49 CFR 1.95.

■ 9. Amend § 535.5 by:
■ a. Revising paragraph (a)(4)(i) and adding paragraphs (a)(4)(v) and (vi);
■ b. Revising paragraph (b)(2)(i) and adding paragraphs (b)(2)(iii) and (iv); and
■ c. Revising paragraph (c)(2)(i) and adding paragraphs (c)(2)(iii), (c)(2)(iv); and
■ d. Revising paragraph (c)(5).

The revisions and additions read as follows:

§ 535.5 Standards.

(a) * * *

(4) * * *

(i) Manufacturers may choose voluntarily to comply early with fuel consumption standards for model years 2013 through 2015, as determined in paragraphs (a)(4)(iii) and (iv) of this section, for example, in order to begin accumulating credits through over-

compliance with the applicable standard. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufactures in each regulatory category for a given model year except as provided in paragraphs (a)(4)(v) and (vi) of this section.

* * * * *

(v) For model year 2013, a manufacturer can choose to comply with the standards in paragraph (a) of this section and generate early credits under § 535.7(b) by using the entire U.S.-directed production volume of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in paragraph (a) of this section apply for vehicles complying in model year 2013. If some test groups are certified by EPA after the start of the model year, the manufacturer may only generate credits under § 535.7(b) for the production that occurs after all test groups are certified in accordance with 40 CFR 1037.150 (a)(2).

(vi) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

* * * * *

(b) * * *

(2) * * *

(i) For model years 2013 through 2015, a manufacturer may choose voluntarily to comply early with the fuel consumption standards provided in paragraph (b)(3) of this section. For example, a manufacturer may choose to comply early in order to begin accumulating credits through over-compliance with the applicable standards. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufacturers in each regulatory category for a given model year except as provided in paragraphs (b)(2)(iii) through (iv) of this section.

* * * * *

(iii) For model year 2013, a manufacturer can choose to comply with the standards in this paragraph (b) and generate early credits under § 535.7(c) by using the entire U.S.-directed production volume within any of its regulatory sub-categories of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in this paragraph (b) apply for vehicles complying in model year 2013. If some vehicle families within a regulatory subcategory are certified by EPA after the start of the model year, manufacturers may generate credits under § 535.7(c) only for production that occurs after all families are certified in accordance with 40 CFR 1037.150(a)(1).

(iv) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

* * * * *

(c) * * *

(2) * * *

(i) For model years 2013 through 2015, a manufacturer may choose voluntarily to comply early with the fuel consumption standards provided in paragraph (c)(3) of this section. For example, a manufacturer may choose to comply early in order to begin accumulating credits through over-compliance with the applicable standards. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufacturers in each regulatory category for a given model year except as provided in paragraphs (c)(2)(iii) through (iv) of this section.

* * * * *

(iii) For model year 2013, a manufacturer can choose to comply with the standards in this paragraph (c) and generate early credits under § 535.7(c) by using the entire U.S.-directed production volume within any of its regulatory sub-categories of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in this paragraph (c) apply for vehicles complying in model year 2013. If some vehicle families within a regulatory subcategory are certified by EPA after the start of the model year, manufacturers may generate credits under § 535.7(c) only for production that occurs after all families are certified in accordance with 40 CFR 1037.150(a)(1).

(iv) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

* * * * *

(5) *Vocational tractors.* Tractors meeting the definition of vocational tractors in 49 CFR 523.2 for purposes of certifying vehicles to fuel consumption standards, are divided into families of vehicles as specified in 40 CFR 1037.230(a)(1) and must comply with standards for heavy-duty vocational vehicles and engines of the same weight class specified in paragraphs (b) and (d) of this section. Class 7 and Class 8 tractors certified or exempted as vocational tractors are limited in production to no more than 21,000 vehicles in any three consecutive model years. If a manufacturer is determined as not applying this allowance in good faith by the EPA in its applications for certification in accordance with 40 CFR 1037.205 and 1037.630, a manufacturer must comply with the tractor fuel consumption standards in paragraph (c)(3) of this section. Vocational tractors generating credits can trade and transfer credits in the same averaging sets as tractors and vocational vehicles in the same weight class.

* * * * *

Dated: August 8, 2013.

David L. Strickland,

Administrator, National Highway Traffic Safety Administration, Department of Transportation.

Dated: August 8, 2013.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation, Environmental Protection Agency.

[FR Doc. 2013–19880 Filed 8–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120604138–3684–03]

RIN 0648–BC21

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule reopens an additional portion of the Georges Bank Closed Area to the harvest of Atlantic surfclams and ocean quahogs. This final

rule follows up on a preceding interim final rule that was published in the **Federal Register** on December 19, 2012. The previous interim final rule reopened a portion of the Georges Bank Closed Area that had been closed to the harvest of Atlantic surfclams and ocean quahogs since 1990 due to the presence of toxins known to cause paralytic shellfish poisoning. However, the area reopened in the interim final rule was reduced in size from the area identified in the proposed rule. Based on comments received on the interim final rule and requests from the New England and Mid-Atlantic Fishery Management Councils, this final rule will reopen an additional portion of the Georges Bank Closed Area.

DATES: This rule is effective August 16, 2013.

ADDRESSES: An environmental assessment (EA) was prepared for this action that describes the final action and other alternatives considered, and provides an analysis of the impacts of the measures and alternatives. Copies of the EA are available on request from the NMFS Northeast Regional Administrator, John K. Bullard, 55 Great Republic Drive, Gloucester, MA 01930. The EA is also available online at *http://www.nero.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, phone (978) 281–9177, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: The Georges Bank (GB) Closed Area, located in the Exclusive Economic Zone east of 69°00′ W. longitude and south of 42°20′ N. latitude, has been closed to the harvest of surfclams and ocean quahogs since 1990 due to red tide blooms that cause paralytic shellfish poisoning (PSP). The closure was implemented based on advice from the U.S. Food and Drug Administration (FDA), after samples tested positive for the toxins (saxitoxins) that cause PSP. Shellfish contaminated with the toxins, if eaten in large enough quantity, can cause illness or death in humans.

Due to inadequate testing or monitoring of this area for the presence of PSP-causing toxins, the closure was made permanent in 1999. Since the implementation of the closure, NOAA's National Ocean Service has provided grants to the FDA, the states of Maine, New Hampshire, and Massachusetts, and a clam industry representative to collect water and shellfish samples from Federal waters off southern New England. NMFS has also issued exempted fishing permits (EFPs) since 2008 to surfclam and ocean quahog vessels to conduct research in the closure area.

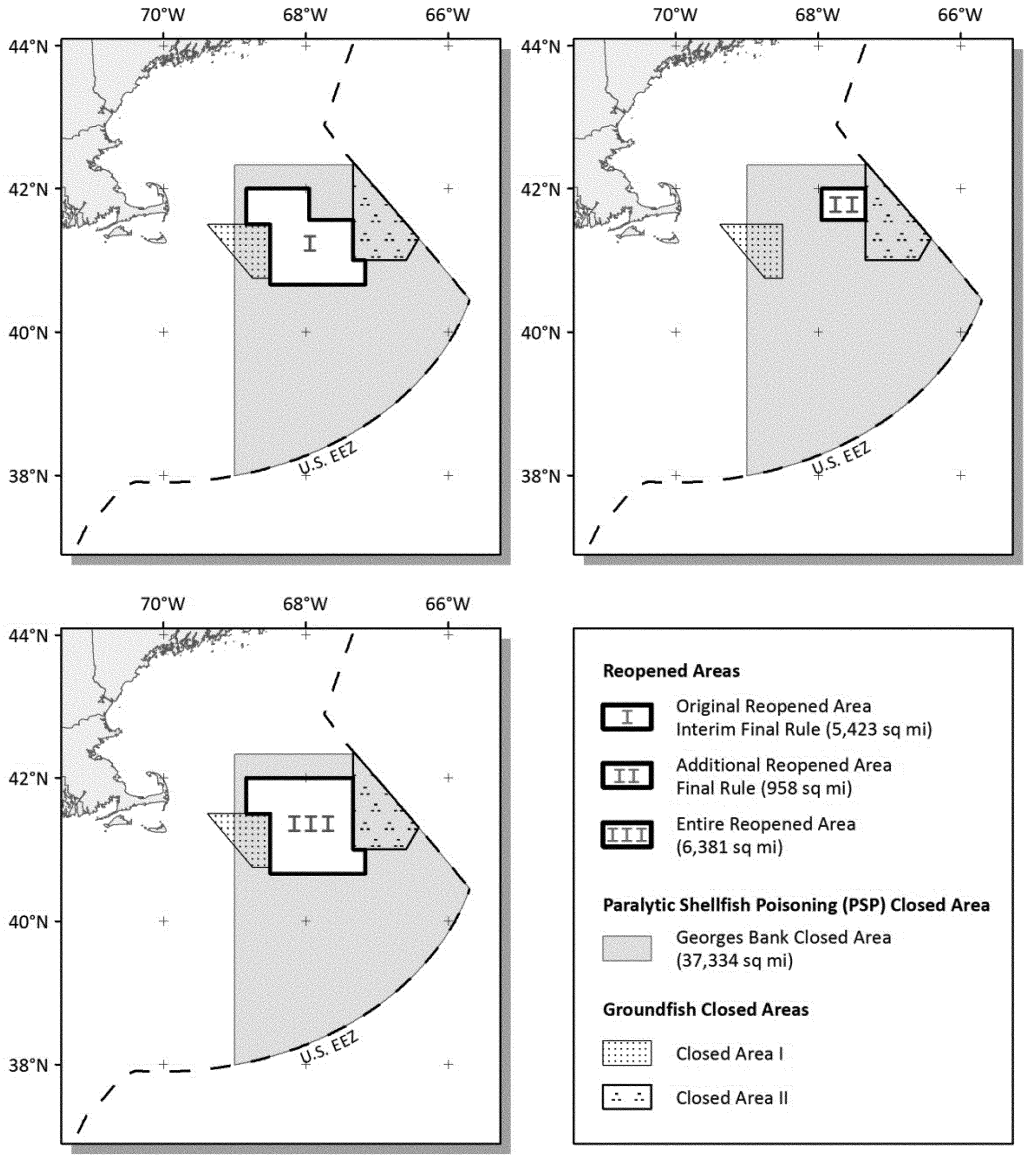
Testing of clams in the area by the FDA in cooperation with NMFS and the fishing industry under the EFPs demonstrate that PSP toxin levels have been well below the regulatory limit established for public health and safety (FDA 2010).[1] The FDA and NMFS also developed a Protocol for Onboard Screening and Dockside Testing in Molluscan Shellfish that is designed to test and verify that clams harvested from the GB PSP Closed Area are safe. The protocol was formally adopted into the National Shellfish Sanitation Program at the October 2011 Interstate Shellfish Sanitation Conference.

On August 31, 2012, NMFS published a proposed rule in the **Federal Register** (77 FR 53164) proposing to reopen a portion of the GB PSP Closed Area. On December 19, 2012, we published an interim final rule in the **Federal Register** (77 FR 75057) that reopened a portion of this area. However, in response to comments received on the proposed rule, the area reopened with the interim final rule was modified slightly from the area in the proposed rule. The interim final rule had a 60-day comment period to allow for additional comments on the modified area. NMFS has reviewed comments received on the interim final rule, and this final rule will reopen the area as originally proposed. That is, in addition to the area that was reopened in the interim final rule, this final rule reopens an additional 958 square miles (2,481 square km) of the GB PSP Closed Area for the harvest of surfclams and ocean quahogs, provided vessels fishing in the area obtain a Letter of Authorization from NMFS and comply with all the terms of the approved PSP testing protocol.

The area being reopened is defined in the table below and the remaining portion of the GB Closed Area will remain closed. The area identified by the coordinates contain both the area reopened with the interim final rule (77 FR 75057) and the additional area being reopened with this final rule.

BILLING CODE 3510–22–P

[1] January 10, 2010, letter from Donald W. Kraemer, Deputy Director, Office of Food Safety, Food and Drug Administration to Patricia A. Kurkul, Regional Administrator, NOAA's NMFS.



BILLING CODE 3510–22–C

Point	Latitude	Longitude
1	42°00′	68°50′
2	42°00′	67°20′
3	41°00′	67°20′
4	41°00′	67°10′
5	40°40′	67°10′
6	40°40′	68°30′
7	41°30′	68°30′
8	41°30′	68°50′
1	42°00′	68°50′

Public Comments

The comment period for the interim final rule ended on February 19, 2013, and NMFS received 14 comments. One comment was against reopening any portion of the GB PSP Closed Area, but provided no supporting justification. The remaining 13 comments were in support of reopening additional portions of the GB Closed Area.

Comment 1: Eleven comments supported reopening additional areas and all provided similar rationale. These comments were from the fishing industry, dealers, and processers, as well as the New England (NEFMC) and Mid-Atlantic Fishery Management Councils (MAFMC). Primarily, the commenters pointed out that the majority of the GB Closed Area is open to other types of bottom-tending mobile gear, so it is not equitable that the area remain closed to surfclam and ocean quahog harvesting. The industry also stated that the resource is abundant on GB and the fishery would benefit from greater access to the resource.

Response: NMFS agrees that it may be justifiable to reopen some additional areas and that reopening additional areas may take some effort off of southern stocks, but, at this time, NMFS does not support reopening areas beyond the areas that were originally considered. The original areas that were analyzed were considered because the data demonstrate that the shellfish harvested from those areas have been and are currently safe for human consumption. This reopening was also based on a request from the MAFMC for a specific area to be reopened based upon the available data. The areas that were analyzed for this action were based on areas that were sampled under an EFP since 2008. None of the samples collected under the EFP presented results that would raise public health and safety concerns. Because the research was only conducted in specific areas, no additional data are available to support reopening additional areas. Further, NMFS defers to the FDA on matters of public health and safety and would need further direction from the FDA and/or evidence that other areas

outside of what was included in the analysis for this action are safe to reopen.

Comment 2: In addition to the comments discussed above in support of reopening additional areas, two additional comments supported reopening specifically the Northeast corner that was considered in the proposed rule, but was withdrawn in the interim final rule. All 13 of the comments received in support of reopening additional areas raised equity concerns because most of the GB Closed areas is open for other types of bottom-tending mobile gear, except hydraulic clam dredge gear. The two commenters also stated that the Northeast corner area that was withdrawn is being considered as a potential habitat management area (HMA) because it contains rocky and coral structure habitats. Further, because hydraulic clam dredges can only fish in sandy substrates, where recovery times are demonstrated to be short, and because hydraulic clam dredge gear sustains significant damage when fished in coral and rocky substrates, the hydraulic clam dredge gear would, by default, not fish in the rocky and coral structures of concern and would, therefore, not disturb these habitats. Finally, a number of the commenters state that they agree with the conclusion drawn in the interim final rule that impacts from hydraulic clam dredge gear in sandy substrates is demonstrated to be temporary and minimal, which would be the case in the Northeast corner area.

Response: NMFS agrees that because other types of bottom-tending mobile gear are already permitted for use in the potential HMA, it is unlikely that additional effort from the surfclam fishery will have significant additional habitat impacts or foreclose any future actions by the NEFMC to establish a new habitat closed area in this location. The Atlantic surfclam fishery is carried out only in sandy substrates, where habitat recovery times for hydraulic dredge gear have demonstrated to be relatively short. In addition, the areas that are being considered as HMAs, are being considered because they contain areas with rocky and coral structures. Because hydraulic clam dredge gear does not operate in these substrates, it is not likely that the rocky and coral substrates will be affected.

Further, most of the area in the Northeast corner, which was withdrawn in the interim final rule, is located in a relatively shallow (30–60 m) part of GB that is routinely highly disturbed by strong tidal currents and wave action from storms. Published studies of the effects of hydraulic clam dredges in high-energy, sandy habitats, such as those where clam fishing occurs, indicate that in this type of environment the affected physical and biological features of the seafloor can be expected to recover from the impacts of this gear in less than a year, and can actually recover within a matter of a few days or months. For this reason, NMFS agrees that the minimal or temporary impacts caused by the use of this gear would not have significant impacts on habitat in the affected area.

Changes From Interim Final Rule

As noted above, in response to comments received on the proposed rule, the area that was reopened with the interim final rule was modified slightly from the proposed rule. The NEFMC submitted a comment on the proposed rule informing NMFS that its Habitat Oversight Committee is developing Essential Fish Habitat Omnibus Amendment 2, which may include potential HMAs that, if implemented, may spatially overlap with the areas proposed for reopening in the proposed rule. Because of the NEFMC concern, we modified the area that was reopened with the interim final rule to ensure that there was no overlap with any portion of the potential HMAs. The intent was to protect the potential HMAs from any additional disturbances, while also allowing the Atlantic surfclam/ocean quahog fleet to access as much of the proposed area as possible without compromising the proposed HMA.

The NEFMC also requested that we extend the comment period on the proposed rule for an additional 60 days to allow them time to compose a more formal comment. We did not extend the comment period on the proposed rule, but instead, we published an interim final rule, which included an additional 60-day comment period while also satisfying the industry's and the MAFMC's request to have the area reopened by the start of the Atlantic surfclam and ocean quahog fishing year on January 1, 2013.

The comment period on the interim final rule closed on February 19, 2013. We received an additional comment from the NEFMC, in which they rescinded their previous comment regarding concern with reopening the portion of the area that would overlap with the potential HMAs. Instead, the NEFMC requested that we reopen all portions of the GB PSP Closed Area that are open to other types of bottom-tending mobile gear.

In light of comments received on the interim final rule, we will reopen the portion of the closed area that was originally proposed, but which was not reopened based on the NEFMC's initial concern. The remainder of the GB PSP Closed Area will remain closed.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries, NOAA, is waiving the 30-day delayed effectiveness provision of the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d)(1), because this is ''a substantive rule which . . . relieves a restriction.'' This rule imposes no new requirements or burdens on the public; to the contrary, it provides economic benefits to the fishery participants by reopening an additional area that has been closed to the harvest of surfclams and ocean quahogs since 1990 due to red tide blooms that cause PSP, without resulting in overfishing. Because recent testing in the GB Closed Area has demonstrated that PSP toxin levels were well below the regulatory limit established for public health and safety, continued closure of the area is not necessary and could unnecessarily restrict Atlantic surfclam and ocean quahog fishing.

Furthermore, the Assistant Administrator for Fisheries, NOAA has determined that there is good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). The GB PSP Closed Area has caused harvesting to be limited to the Mid-Atlantic, where Atlantic surfclam and ocean quahog stocks have recently become less abundant. A 30-day delay in effectiveness would continue to prohibit harvest from this portion of the GB PSP Closed Area and would continue to put pressure on Mid-Atlantic stocks. Waiving the 30-day delay would allow additional areas in the GB Closed Area to be reopened sooner, which could relieve fishing pressure on southern stocks and would allow for greater distribution of Atlantic surfclam and ocean quahog harvest effort in the region. We also received public comment on the proposed rule for this action that fishing is only being continued in the Mid-Atlantic region to maintain the market, and vessels may no longer be profiting. Thus, a delay in effectiveness could result in continued loss of revenue for the Atlantic surfclam and ocean quahog fishing fleet.

Failure to make this final rule effective upon publication will

undermine the intent of the rule to promote optimal utilization and conservation of the Atlantic surfclam and ocean quahog resources. For these reasons, the 30-day delay is waived and this rule will become effective upon publication in the **Federal Register.**

The Office of Management and Budget has determined that this rule is not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was provided in the proposed rule for this action (77 FR 53163) and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

On June 20, 2013, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). The rule increased the size standard for Finfish Fishing from $4.0 to $19.0 million, Shellfish Fishing from $4.0 to $5.0 million, and Other Marine Fishing from $4.0 to $7.0 million. Pursuant to the Regulatory Flexibility Act, and prior to SBA's June 20, 2013, final rule, a certification was developed for this action using SBA's former size standards. Subsequent to the June 20, 2013, rule, NMFS has reviewed the certification prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards. NMFS has determined that the new size standards do not affect the analyses prepared for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 12, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.76, paragraph (a)(4) is revised to read as follows:

§ 648.76 Closed areas.

(a) * * *

(4) *Georges Bank.* The paralytic shellfish poisoning (PSP) contaminated area, which is located on Georges Bank, and is located east of 69° W. long., and south of 42°20′ N. lat. is closed to the harvest of surfclams and ocean quahogs. A portion of the Georges Bank Closed Area is open to harvest surfclams and ocean quahogs provided the vessel complies with the requirements specified in paragraph (a)(4)(i) of this section. The open portion of the Georges Bank Closed Area is defined by straight lines connecting the following points in the order stated:

OPEN PORTION OF THE GEORGES BANK CLOSED AREA

Point	N. Latitude	W. Longitude
1	42°00′	68°50′
2	42°00′	67°20′
3	41°00′	67°20′
4	41°00′	67°10′
5	40°40′	67°10′
6	40°40′	68°30′
7	41°30′	68°30′
8	41°30′	68°50′
1	42°00′	68°50′

(i) *Requirements for Vessels Fishing in the Open Portion of the Georges Bank Closed Area.* A vessel may fish in the open portion of the Georges Bank Closed Area as specified in this paragraph (a)(4), provided it complies with the following terms and conditions:

(A) A valid letter of authorization issued by the Regional Administrator must be onboard the vessel; and

(B) The vessel must adhere to the terms and conditions of the PSP testing protocol as adopted into the National Shellfish Sanitation Program by the Interstate Shellfish Sanitation Conference. All surfclams and ocean quahogs harvested from the area must be handled in accordance with the terms and conditions of the protocol from the first point of harvest through completion of testing and release by the State Shellfish Control Authority as required by the PSP testing protocol; and

(C) Prior to leaving port at the start of a fishing trip, the vessel's owner or operator must declare its intent to fish in the area through the vessel's vessel monitoring system.

(ii) [Reserved]

* * * * *

[FR Doc. 2013–20028 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 159
Friday, August 16, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2012–0038]

RIN 0579–AD79

Importation of Cape Gooseberry From Colombia Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of cape gooseberry from Colombia into the United States. As a condition of entry, cape gooseberry from Colombia would be subject to a systems approach that would include requirements for establishment of pest-free places of production and the labeling of boxes prior to shipping. The cape gooseberry would also have to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Colombia certifying that the fruit has been produced in accordance with the systems approach. This action would allow for the importation of cape gooseberry from Colombia into the United States while continuing to provide protection against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before October 15, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0038-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0038, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0038* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2352.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–59, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Cape gooseberry (*Physalis peruviana*) from Colombia is authorized for importation into the United States if the commodity is treated with a cold treatment for Mediterranean fruit fly (*Ceratitis capitata* or Medfly). The national plant protection organization (NPPO) of Colombia has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow commercial consignments of cape gooseberry fruit from production sites recognized as free of Medfly in the Bogota Savannah and the neighboring municipalities above 2,200 meters of elevation in the Departments of Boyacá and Cundinamarca without cold treatment.

In response to the request of the NPPO of Colombia, we prepared a commodity import evaluation document (CIED) titled ''Recognition of cape gooseberry production sites that are free of Mediterranean fruit fly within a low prevalence area in Colombia Bogota Savannah and the neighboring municipalities above 2,200 meters in the Departments of Boyacá and Cundinamarca.'' The CIED may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the CIED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Based on the evidence presented in the CIED, we have determined that cape gooseberry can be safely imported from Colombia into the United States without cold treatment if they are produced in accordance with a systems approach. We are proposing to add the systems approach outlined below to the regulations in a new § 319.56–60 governing the importation of cape gooseberry from Colombia.

Proposed Systems Approach

General Requirements

Paragraph (a) of proposed § 319.56–60 would require the NPPO of Colombia to provide a bilateral workplan to APHIS that details the activities the NPPO will carry out to meet the requirements of the systems approach, subject to APHIS' approval of the workplan. APHIS would be directly involved with the NPPO in monitoring and auditing implementation of the systems approach. A bilateral workplan is an agreement between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will be carried out to comply with our regulations regarding a specific commodity. Bilateral workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Bilateral workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The implementation of a systems approach typically requires a bilateral workplan to be developed.

Places of Production Requirements

Paragraph (b)(1) of proposed § 319.56–60 would specify that all places of production be registered with the NPPO of Colombia. Under paragraph (b)(2) of proposed § 319.56–60, all places of production would have to be located

within the *C. capitata* low prevalence area of the Bogota Savannah and the neighboring municipalities above 2,200 meters in the Departments of Boyacá and Cundinamarca. APHIS has reviewed and approved the methods used by the NPPO of Colombia to survey for low pest prevalence and to recognize specific places of production as free of Medfly in the specified areas. Pest-free places of production within certified low pest prevalence areas have been effectively used in the past as an element of a systems approach to allow fruits to be safely imported into the United States, and we believe this measure can be successfully applied to the importation of cape gooseberry from Colombia.

Mitigation Measures for Medfly

Only one fruit fly has been trapped in the low prevalence area in Bogota Savannah and the neighboring municipalities above 2,200 meters since 1993. Therefore, we propose using trapping to monitor the places of production within the low prevalence area described above as an element of the systems approach to mitigate the risk posed by Medfly.

In paragraph (c)(1) of proposed § 319.56–60, we would require the NPPO of Colombia to place fruit fly traps at intervals specified in the bilateral work plan to demonstrate place of production freedom from Medfly. The NPPO of Colombia would have to keep records of fruit fly detections for each trap and make the records available to APHIS upon request.

Paragraph (c)(2) would specify that the trapping of any Medfly would have to be reported to APHIS immediately. Capture of *C. capitata* would result in immediate cancellation of exports from farms within 5 square kilometers (km^2) of the detection site. An additional 50 traps would have to be placed in the 5 km^2 area surrounding the detection site. If a second detection is made within that 5 km^2 area within 30 days of the first, eradication using a bait spray agreed upon by APHIS and the NPPO of Colombia would have to be initiated in the detection area and treatment would have to continue for at least 2 months. Exports could resume from the detection area when APHIS and the NPPO of Colombia agree the risk has been mitigated. These requirements would ensure that production sites are monitored, that no fruit is shipped from sites where Medfly has been detected, and that the presence of Medfly is addressed quickly and definitively.

Post-Harvest Procedures

Under paragraph (d) of proposed § 319.56–60, the cape gooseberries would have to be packed in boxes marked with the identity of the originating farm. This measure would allow shipments of the fruit to be traced back to the farm in the event of the discovery of a pest. The boxes containing cape gooseberries would have to be packed in sealed and closed containers before being shipped in order to prevent harvested fruit from being infested by quarantine pests.

Phytosanitary Inspection

Paragraph (e) would state that, after the commodity is packed, the NPPO of Colombia must visually inspect a biometric sample of cape gooseberry at a rate jointly approved by APHIS and the NPPO of Colombia and cut open the fruit to detect *C. capitata.* External and internal inspection of a sample would ensure that pests at various life stages are detected.

Commercial Consignments

Paragraph (f) would state that only commercial consignments of cape gooseberry would be allowed to be imported. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

Phytosanitary Certificate

Paragraph (g) would set out the requirement for a phytosanitary certificate. Each consignment of fruit would have to be accompanied by a phytosanitary certificate issued by the NPPO of Colombia, providing an additional declaration stating that the fruit in the consignment was produced in accordance with the requirements in proposed § 319.56–60. This requirement would provide for the Colombian NPPO's confirmation that the provisions of the regulations have been met.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

APHIS is proposing to amend the current regulations to allow the entry of fresh cape gooseberry from Colombia under a systems approach. Since 2003, Colombia has been allowed to export fresh cape gooseberry to the United States under a cold treatment protocol to prevent the entry of Medfly. The systems approach would permit cape gooseberry imports without cold treatment from production sites recognized as free of Medfly. In 2011, only about 0.2 percent (14 metric tons) of Colombia's fresh cape gooseberry exports were shipped to the United States, valued at about $90,300.

The United States does not produce cape gooseberry commercially. Small entities that may benefit from increased imports of fresh cape gooseberry from Colombia would be importers, wholesalers, and other merchants who sell this fruit. While these industries are primarily comprised of small entities, APHIS expects any impacts of the proposed rule for these businesses to be minor.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow cape gooseberry to be imported into the United States from Colombia. If this proposed rule is adopted, State and local laws and regulations regarding cape gooseberry imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this

proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2012–0038. Please send a copy of your comments to: (1) Docket No. APHIS–2012–0038, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of cape gooseberry from Colombia into the United States. As a condition of entry, cape gooseberry from Colombia would be subject to a systems approach that will require information collection activities including a bilateral workplan, registration of places of production, box marking, trapping and records, and a phytosanitary certificate.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.1651 hours per response.

Respondents: NPPO of Colombia, producers, and exporters.

Estimated annual number of respondents: 427.

Estimated annual number of responses per respondent: 11.

Estimated annual number of responses: 4,626.

Estimated total annual burden on respondents: 767 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. A new § 319.56–60 is added to read as follows:

§ 319.56–60 Cape gooseberry from Colombia.

Cape gooseberry (*Physalis peruviana*) may be imported into the United States from Colombia in accordance with the conditions described in this section. These conditions are designed to prevent the introduction of *Ceratitis capitata.*

(a) *General requirements.* The national plant protection organization (NPPO) of Colombia must provide a bilateral workplan to APHIS that details the activities that the NPPO will, subject to APHIS' approval, carry out to meet the requirements of this section. APHIS will be directly involved with the NPPO in the monitoring and auditing implementation of the systems approach.

(b) *Place of production requirements.* (1) All places of production must be registered with the NPPO of Colombia.

(2) All places of production must be located within the *C. capitata* low prevalence area of the Bogota Savannah and the neighboring municipalities above 2,200 meters in the Departments of Boyacá and Cundinamarca.

(c) *Mitigation measures for C. capitata.* (1) Trapping for *C. capitata* must be conducted in the places of production in accordance with the bilateral workplan to demonstrate that those places are free of *C. capitata.* Specific trapping requirements must be included in the bilateral workplan. The NPPO of Colombia must keep records of fruit fly detections for each trap and make the records available to APHIS upon request.

(2) All fruit flies trapped must be reported to APHIS immediately. Capture of *C. capitata* will result in immediate cancellation of exports from farms within 5 square kilometers of the detection site. An additional 50 traps must be placed in the 5 square kilometer area surrounding the detection site. If a second detection is made within the detection areas within 30 days of a previous capture, eradication using a bait spray agreed upon by APHIS and the NPPO of Colombia must be initiated in the detection area. Treatment must continue for at least 2 months. Exports may resume from the detection area when APHIS and the NPPO of Colombia agree the risk has been mitigated.

(d) *Post-harvest procedures.* The cape gooseberry must be packed in boxes marked with the identity of the originating farm. The boxes must be packed in sealed and closed containers before being shipped.

(e) *Phytosanitary inspection.* After packing, the NPPO of Colombia must visually inspect a biometric sample of cape gooseberry at a rate jointly approved by APHIS and the NPPO of Colombia, and cut open the sampled fruit to detect *C. capitata.*

(f) *Commercial consignments.* The cape gooseberry must be imported in commercial consignments only.

(g) *Phytosanitary certificate.* Each consignment of cape gooseberry must be accompanied by a phytosanitary

certificate issued by the NPPO of Colombia containing an additional declaration stating that the fruit originated from a place of production free of *C. capitata* within the low prevalence area of Bogota Savannah and the neighboring municipalities above 2,200 meters of elevation in the Departments of Boyacá and Cundinamarca and was produced in accordance with the requirements of § 319.56–60.

Done in Washington, DC, this 12th day of August 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–19959 Filed 8–15–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–BT–PET–0043]

Energy Conservation Program for Consumer Products: Landmark Legal Foundation; Petition for Reconsideration

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Petition for Reconsideration; Request for Comments.

SUMMARY: The Department of Energy (DOE) received a petition from the Landmark Legal Foundation (LLF), requesting that DOE reconsider its final rule of Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens, Docket No. EERE–2011–BT–STD–0048, RIN 1904–AC07, 78 FR 36316 (June 17, 2013) (''Microwave Final Rule'' or ''the Rule''). Specifically, LLF requests that DOE reconsider the Rule because the final rule used a different Social Cost of Carbon (SCC) than the figure used in the supplemental notice of proposed rulemaking (SNOPR). DOE seeks comment on whether to undertake the reconsideration suggested in the petition.

DATES: Any comments must be received by DOE not later than September 16, 2013.

ADDRESSES: Comments must be submitted, identified by docket number EERE–BT–PET–0043, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: LLFPetition2013PET0043@ee.doe.gov.* Include either the docket number EERE–BT–PET–0043, and/or ''LLF Petition'' in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Room 1J–018, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please submit one signed original paper copy.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Room 1J–018, 1000 Independence Avenue SW., Washington, DC 20585–0121.

5. *Instructions:* All submissions received must include the agency name and docket number for this proceeding.

Docket: For access to the docket to read background documents, or comments received, go to the *Federal eRulemaking Portal* at *www.regulations.gov.* In addition, electronic copies of the Petition are available online at DOE's Web site at the following URL address: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-PET-0043.*

FOR FURTHER INFORMATION CONTACT: Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–6590, or *email: Ashley.Armstrong@ee.doe.gov.* Ari Altman, U.S. Department of Energy, Office of General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4224, *email: Ari.Altman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq., provides among other things that, ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' 5 U.S.C. 553(e). DOE received a petition from the Landmark Legal Foundation (LLF) on July 2, 2013, requesting that DOE reconsider its final rule of Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens, Docket No. EERE 2011 BT STD 0048, RIN 1904 AC07, 78 FR 36316 (June 17, 2013) (''Microwave Final Rule'' or ''the Rule'').

The Rule was adopted by DOE in accordance with the Energy Policy and Conservation Act of 1975 (EPCA). (78 FR 36316) EPCA, as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment. On June 17, 2013, DOE published a final rule adopting standby mode and off mode standards, which it determined would result in significant conservation of energy and were technologically feasible and economically justified.

In developing the Rule, DOE issued a Supplemental Notice of Proposed Rulemaking (SNOPR) on February 14, 2012. (77 FR 8555) In this SNOPR, as part of its economic analysis of the proposed rule, DOE sought to monetize the cost savings associated with the reduced carbon missions that would result from the expected energy savings of the proposed rule. To do this, DOE used ''the most recent values [of SCC] identified by the interagency process,'' which, at the time, was the SCC calculation developed by the ''Interagency Working Group on Social Cost of Carbon 2010.'' *Id.* This 2010 figure was developed through an interagency process in accordance with Executive Order 12866.

In May 2013, subsequent to the SNOPR but prior to DOE's issuance of the Rule, the Interagency Working Group on Social Cost of Carbon released revised SCC values. (Technical Update of the *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, United States Government, 2013) As these were ''the most recent (2013) SCC values from the interagency group,'' DOE included these revised SCC values in the Rule. (78 FR 36316)

Landmark petitions DOE to reconsider the Rule on the grounds that this change in the values used in estimating the economic benefits of the Rule should have been subject to a prior opportunity for public comment because the 2013 SCC values were not the ''logical outgrowth'' of the 2010 SCC values. Further, Landmark asserts that without reconsideration of the Rule, DOE might now rely on its prior use of the 2013 SCC values in the Rule when it endeavors to enact new energy conservation standards in the future.

In promulgating this petition for public comment, DOE seeks public comment on whether to undertake the reconsideration suggested in the petition. DOE takes no position at this time on the merits of the suggested reconsideration.

Issued in Washington, DC, on August 12, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Set forth below is the full text of the Landmark Legal Foundation.

BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Parts 429 and 430
Docket No. EERE–2011–BT–STD–0048
RIN 1904–AC07

In the Matter of Energy Conservation Program: Energy Conservation Standards For Standby Mode and Off Mode for Microwave Ovens

Petition for Reconsideration

Landmark Legal Foundation (''Landmark'') respectfully petitions the Department of Energy (''DOE'' or ''Department'') for reconsideration of its final rule on Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens, Docket No. EERE–2011–BT–STD–0048, RIN 1904–AC07, 78 FR 36316 (June 17, 2013) (''Microwave Final Rule'' or ''Rule'').

President Barrack Obama has directed the issuance of sweeping new environmental regulations on carbon emissions from multiple sources. *See* Raf Sanchez, ''Barrack Obama to cut emissions in vow to save planet,'' *The Telegraph,* June 26, 2013, (*http://www.telegraph.co.uk/news/worldnews/n01thamerica/usa/l0142279/Barack-Obama-to-cut-emissions-in-vow-to-save-planet.html*). These new regulations will be applied to sources ranging from small appliances to both new and existing power plants. *See* Justin Sink, ''Obama mocks skeptics of climate change as 'flat-Earth society,' '' *The Hill,* June 25, 2013, (*http://thehill.com/blogslblog-briefing-room/news/307655-obama-we-dont-have-time-for-a-meeting-of-the-flat-earth-society#ixzz2XFsQ5mgH*).

Each of the new and massive regulatory proposals directed at carbon emission sources will require implementing agencies to conduct ''cost-benefit'' analysis upon which the public should be able to make comment. DOE's unannounced, dramatically increased, and improperly altered ''Social Cost of Carbon'' (''SCC'') valuation presented for the first time in this microwave oven regulation will certainly become the standard by which all other agencies will place a purportedly beneficial economic value on new carbon regulations.

Landmark objects to the Department's (and unnamed other agencies) decision to utilize an ''Interagency Update'' to justify increasing the ''social cost'' of carbon dioxide without any opportunity for public comment. Finalizing such a far reaching decision without notice and public comment violates the Administrative Procedure Act's (APA) and Executive Order 13563's tenets of transparency, objectivity and fairness in promulgating and finalizing regulations.

Landmark submits this document as a Petition for Reconsideration. However, the egregious violations of the APA as documented in this Petition demand rescission of the Rule. Landmark respectfully requests the DOE halt implementation and begin the regulatory process anew. At a minimum, the DOE's action must be reconsidered and presented to the public for proper consideration and comment. Without public input on DOE's SCC calculation, the agency will utterly fail to adhere to its obligations for transparency under the APA and its duty to comply with the Obama Administration's declared commitment to meaningful public participation. DOE should immediately suspend implementation of this regulation, place it on the public docket and permit comments on the Department's decision to utilize a new and previously unknown ''interagency update'' for calculating the values used to quantify the ''Social Cost of Carbon'' or ''SCC.''

Background

On June 17, 2013, pursuant to the Energy Policy and Conservation Act and the Energy Independence and Security Act, (''EPCA'' and ''EISA 2007,'' respectively) DOE promulgated a final rule establishing ''energy conservation standards'' for microwave ovens. 78 FR 36316.

The final rule uses a new valuation for SCC that is different from—and dramatically higher than—that used in the proposed rule during the notice and comment period. See, 77 FR 8555 (Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens, Supplemental Notice of Proposed Rulemaking and public meeting, Feb. 14, 2012). This new valuation appears in Table IV–14 of the new rule and, apparently, is derived from the ''2013 Interagency Update, 2010–2050.'' 78 FR 36351. The new value is important because it serves as a key data factor in all cost-benefit analyses performed involving carbon dioxide. Despite its curious and surreptitious integration into a rule pertaining to microwave ovens, this new estimate appears to apply to all federal agencies engaging in cost-benefit analyses involving carbon dioxide emissions. DOE states, ''the purpose of the SCC estimates presented here is to *allow agencies* to incorporate the monetized social benefits of reducing C02 emissions into cost benefit analyses of regulatory actions. . . .'' 78 FR at 36349 (emphasis added).

While the final rule utilizes an ''interagency update'' for establishing SCC values, the proposed rule does not contain these updated figures. See 78 FR 36351 and 77 FR 8555, respectively. Instead, the proposed rule provides SCC values derived ''from three integrated assessment models.'' 77 FR 8555. There is significant deviation in SCC estimates from the models used in the proposed rule to the models used in the final rule. For example, in the proposed rule, the Social Cost of Carbon, under one discount rate is estimated to be $23.80 dollars per metric ton by 2015. 77 FR 8555. That number rises to $38 dollars per metric ton under the new estimates provided in the final rule. 78 FR 36351.

It appears these new figures were inserted into the existing rule without any opportunity for public comment on their efficacy. Such new values will dramatically affect cost-benefit analyses. Any federal rule limiting carbon dioxide emissions will now appear considerably more valuable than under previous analyses.

DOE acknowledges that any effort to ''quantify and monetize the harms associated with climate change'' raises ''serious questions of science, economics, and ethics . . .'' 78 FR at 36349. It also reports that it arrived at these estimates ''as part of [an] interagency process ''where numerous agencies met on a regular basis . . .'' Id. However, there is no indication that DOE, or any other governmental entity, sought specific comments from the public on its new estimates. DOE states that preliminary assessments that established ''interim values'' for the SCC were subject to the traditional notice and comment procedures, ''the results of this preliminary effort were presented in several proposed and final rules.'' Id. Yet, DOE has not made these new estimates available for public comment. Instead, DOE, along with a number of other federal agencies, arrived at these new figures through some sort of ''interagency process'' and published them in a final regulation on microwave oven power modes.

Argument

A. DOE Violated the Administrative Procedure Act by Failing To Allow the Public the Opportunity To Comment on its New Values on the Social Costs of Carbon

The DOE's effort to cloak its actions by dubiously inserting a crucial cost-benefit metric into a rule pertaining to microwave oven standards does not withstand scrutiny under the APA. It appears that DOE inserted its new SCC estimates into the regulation without

first publishing these estimates in a format allowing for public comment. Unilaterally establishing a wide ranging metric that will be used in all cost-benefit analyses for regulation of greenhouse gases violates the fundamental principles of the APA and would not survive judicial scrutiny.

The APA mandates that an agency ''shall give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation.'' 5 U.S.C. 553(c). The purpose of a robust comment period ''is to allow interested members of the public to communicate information, concerns, and criticisms to an agency during rulemaking process.'' *Connecticut Light* & *Power Co.* v. *Nuclear Regulatory Com.,* 673 F.2d 525, 530 (D.C. Cir. 1982). Such a period allows ''the agency to benefit from the experience and input of the parties who file comments . . . and to see to it that the agency maintains a flexible and open-minded attitude towards its own rules.'' *National Tour Brokers Ass'n* v. *United States,* 591 F.2d 896, 902 (D.C. Cir. 1978).

Therefore, the notice and comment period ''encourages public participation in the administrative process and educates the agency, thereby helping to ensure informed agency decisionmaking.'' *Chocolate Manufacturers Assoc.* v. *Block,* 755 F.2d 1098, 1103 (4th Cir. 1985), (*citing Spartan Radiocasting Co.* v. *FCC,* 619 F.2d 314, 321 (4th Cir. 1980)); *BASF Wyandotte Corp.* v. *Castle,* 598 F.2d 637, 642 (1st Cir. 1979)). Providing adequate notice of a significant change in a proposed rule gives ''the public the opportunity to participate in the rule-making process. It also enables the agency promulgating the rule to educate itself before establishing rules and procedures which have a substantial impact on those regulated.'' *Texaco, Inc.* v. *Federal Power Commission,* 412 F.2d 740, 744 (3'd Cir. 1969). When an agency fails to properly adhere to the APA's notice and comment procedures ''interested parties will not be able to comment meaningfully on the agency's proposals.''

Connecticut Light & Power, 673 F.2d at 530. Moreover, ''the agency may operate with a one-sided or mistaken picture of the issues at stake in a rule-making.'' *Id.* Finally, where, as here, an agency has made a fundamental change in a critical component of its analysis, the agency has a duty to inform the public.

> ''[H]iding or disguising the information that it employs is to condone a practice in which the agency treats what should be genuine interchange as mere bureaucratic sport. *An agency commits serious procedural error when it fails to reveal portions of the technical basis for a proposed rule in time to allow meaningful commentary.''*

Connecticut Light & Power, 673 F.2d at 530–531.

Thus, a proper notice and comment period improves the ''quality of agency rulemaking by testing proposed rules through exposure to public comments. Second, the notice requirements provide an opportunity to be heard, which is basic to fundamental fairness. Third, notice and comment allows affected parties to develop a record of objections for judicial review.'' *United Church Bd. For World Ministries* v. *SEC,* 617 F.Supp. 837, 839 (D.C. Dist. 1985), *citing Small Refined Lead Phase-Down Task Force* v. *EPA,* 705 F.2d 506, 547 (D.C. Cir. 1983).

Finally, an agency ''is required to renotice [its proposed rule] when the changes [to that rule] are so major that the original notice did not adequately frame the subjects for discussion.'' *Connecticut Light & Power,* 673 F.2d at 533. If the agency's changes are a logical outgrowth of the proposed rule, ''the agency need not renotice [such] changes.'' *Id. See also, Weyerhaeuser Co.* v. *Castle,* 590 F.2d 1011, 1031 (D.C. Cir. 1978).

DOE eschewed all of these principles when it made a significant change to its rule.

B. DOE's Unilateral Decision Is Not a Logical Outgrowth From the Proposed Rule and Will Have Wide Ranging Implications

By inserting a new estimate for SCC values, DOE denied interested parties the opportunity to comment on DOE's motivations, methodologies and conclusions in reaching said values. The public has also been denied the opportunity to question the calculations utilized by the ''Interagency Working Group on Social Costs of Carbon.'' Instead, these new values were unilaterally placed into a final regulation with no notice or opportunity to comment. These new values are not a logical outgrowth from the proposed rule. In fact, DOE notes in both the proposed and final rules, ''that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable. . . .'' 77 Fed Reg. 8555, 78 FR 36351. DOE acknowledges that ''key uncertainties remain,'' yet disregards its obligation to receive potentially instructive information by providing a forum for public comment.

Additionally, these changes are significant and wide reaching. DOE concedes that other agencies will utilize these new values when calculating the costs and benefits of rules relating to greenhouse gasses. It states, ''the purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO2 emissions . . .'' 78 FR 36349. With this unilateral change, agency cost benefit analyses will be drastically affected. Going forward, any federal rule limiting carbon dioxide emissions will appear considerably more valuable than under previous analyses. Such a change could ''have wide-ranging implications for everything from power plants to the Keystone XL pipeline.'' Mark Brajem, ''Obama Quietly Raises 'Carbon Price' as Costs to Climate Increase.'' Bloomberg.com, June 12, 2013 (Attached as Exhibit A.) In choosing to bypass the mandated notice and comment procedures for this significant change, DOE has violated the APA. The Department can rectify this violation by halting the regulation's implementation and allowing for public comment.

C. DOE Disregarded Executive Order 13563 When It Failed To Provide for Notice and Comment on the New Data

On January 18, 2011, President Obama issued an executive order requiring that agency rulemaking ''shall be adopted through a process that involves public participation.'' Executive Order 13563, Improving Regulation and Regulatory Review. In particular, the President's executive order provided:

> To promote that open exchange, each agency, consistent with Executive Order 12866 and other applicable legal requirements, shall endeavor to provide the public with an opportunity to participate in the regulatory process. To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days. To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings. Id.

For reasons set forth above, the DOE's actions also violate the principles outlined in President Obama's order.

Conclusion

Landmark respectfully requests DOE immediately halt implementation and rescind the Rule. In the alternative, Landmark requests DOE adhere to the mandates of the APA, and subject the changes documented in this Petition to a proper notice and comment.

Respectfully Submitted,

Mark R. Levin, President
Landmark Legal Foundation, 19415 Deerfield Ave., Suite 312, Leesburg, VA 20176.

JULY 2, 2013

[FR Doc. 2013–19950 Filed 8–15–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0694; Directorate Identifier 2013–NM–097–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2002–10–11, which applies to certain the Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2002–10–11 currently requires repetitive inspections for cracking and corrosion of the aft pressure bulkhead, and corrective actions if necessary; and, for certain airplanes, enlargement of frame chord drain holes, and repetitive inspections of the frame chord drain path for debris, and corrective actions if necessary. Since we issued AD 2002–10–11, we have received three reports of severe corrosion in the area affected by that AD. This proposed AD would, for certain airplanes, reduce the repetitive inspection interval, and add repetitive inspections of the frame chord drain path for obstructions and debris, and corrective actions if necessary. This proposed AD would also limit corrosion and cracking repairs of the aft pressure bulkhead accomplished after the effective date of this AD to those approved by the FAA in a manner described therein. In reviewing AD 2002–10–11, we noted that the drain path inspection was not required for certain airplanes, and could be eliminated for all airplanes if operators accomplished certain actions required by AD 2002–10–11. This proposed AD would add a drain path inspection for all airplanes. We are proposing this AD to detect and correct corrosion or cracking of the aft pressure bulkhead, which could result in loss of the aft pressure bulkhead web and stiffeners, and consequent rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by September 30, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0694; Directorate Identifier 2013–NM–097–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On May 14, 2002, we issued AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), for certain Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2002–10–11 superseded AD 84–20–03 R1, Amendment 39–5183 (50 FR 51235, December 16, 1985). AD 2002–10–11 requires repetitive inspections for cracking and corrosion of the aft pressure bulkhead, and corrective actions if necessary; and, for certain airplanes, enlargement of frame chord drain holes, repetitive inspections of the frame chord drain path for obstructions and debris, and corrective actions if necessary. We issued AD 2002–10–11 to detect and correct corrosion or cracking of the aft pressure bulkhead at body station (BS) 1016, which could result in loss of the aft pressure bulkhead web and stiffeners, and consequent rapid decompression of the fuselage.

Actions Since AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), Was Issued

Since 2010, we have received three reports of severe corrosion in the aft pressure bulkhead. Two of these airplanes were corroded completely through the thickness of the pressure web. The age of the airplanes when corrosion was found ranged from 12 to 17 years. The total flight hours ranged from 40,892 to 68,389 hours, and the total flight cycles ranged from 22,701 to 58,156 flight cycles.

AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002),

requires repetitive inspections for corrosion at 2-year intervals for airplanes having line numbers 1 through 1042, and at 4-year intervals for airplanes having line numbers 1043 through 3132. All reports of severe corrosion have been from the latter group of airplanes with the longer repetitive inspection interval.

In addition, repair procedures in Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, which is specified in paragraph (g) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), as the appropriate source of service information, include instructions for blending out corrosion on the bulkhead web. The reworked web is more susceptible to subsequent corrosion.

After consultation with the manufacturer, we have determined that reduction of the interval for the repetitive inspections from 4 years to 2 years, together with removal of repair instructions for blending out corrosion on the bulkhead web, will reduce the frequency and severity of corrosion findings and provide an acceptable level of safety.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002). This proposed AD would reduce the interval for the repetitive inspections for airplanes having line numbers (L/N) 1043 through 3132 inclusive from 4 years to 2 years; and would provide an option to inspect only the aft side of the aft pressure bulkhead every 3 months for a maximum of 2 years, at which time both the forward and aft sides of the aft pressure bulkhead would require repetitive inspections at 2-year intervals. This proposed AD would, for certain airplanes, add repetitive inspections of the frame chord drain path for debris, and corrective actions if necessary.

Changes to AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002)

This proposed AD would retain all the requirements of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002). Since AD 2002–10–11 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002)	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (g)
paragraph (b)	paragraph (h)
paragraph (c)	paragraph (i)
paragraph (d)	paragraph (j)
paragraph (e)	paragraph (k)
paragraph (f)	paragraph (l)
paragraph (g)	paragraph (m)

Note 2 (detailed inspection definition) in AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), has been removed from this proposed AD because it is described in Figure 1 of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000.

Paragraph (e) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), which is paragraph (k) in this proposed AD, has been revised to clarify that the required actions include inspecting the drain path in the chord frame for debris.

The terminating action statement in paragraph (e)(1) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), has been revised to terminate only the aft bulkhead inspection for cracking and corrosion in paragraph (g) of this proposed AD.

Since we issued AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), Boeing Commercial Airplanes received an Organization Designation Authorization (ODA). We have revised this proposed AD to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Boeing Commercial Airplanes ODA rather than a Designated Engineering Representative.

Differences Between the Proposed AD and the Service Information

Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, describes instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes ODA whom we have authorized to make those findings.

This proposed AD would also reduce the repeat inspection interval for corrosion and cracking on airplanes having line numbers 1043 through 3132.

Costs of Compliance

We estimate that this proposed AD affects 419 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	4 work-hours × $85 per hour = $340 per inspection cycle.	$0	$340 per inspection cycle.	$142,460 per inspection cycle.

The new requirements of this proposed AD add no additional economic burden.

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	Up to 136 work-hours × $85 per hour = Up to $11,560	$5,217	Up to $16,777.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), and adding the following new AD:

The Boeing Company: Docket No. FAA–2013–0694; Directorate Identifier 2013–NM–097–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by September 30, 2013.

(b) Affected ADs

This AD supersedes AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002).

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, line numbers 1 through 3132 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by three reports of severe corrosion in the area affected by AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002). We are issuing this AD to detect and correct corrosion or cracking of the aft pressure bulkhead, which could result in loss of the aft pressure bulkhead web and stiffeners, and consequent rapid decompression of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Initial Aft Pressure Bulkhead Inspection

This paragraph restates the requirements of paragraph (a) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with clarification of the drain path inspection. For Model 737 series airplanes having line numbers (L/N) 1 through 929 inclusive, with more than 20,000 hours time-in-service or 7 years since date of manufacture, whichever occurs first: Within 120 days after January 20, 1986 (the effective date of AD 84–20–03 R1, Amendment 39–5183 (50 FR 51235, December 16, 1985)), unless already accomplished within the 21 months before January 20, 1986, visually inspect the body station (BS) 1016 pressure bulkhead, including inspecting for cracking and corrosion of the pressure bulkhead, and for debris in the drain path in the chord frame, according to Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. Remove any obstruction to the drain hole in the frame chord and replace any deteriorated leveling compound as noted in Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. Treat the area of inspection with corrosion inhibitor BMS 3–23, or equivalent. After the effective date of this AD, use only Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, to do the actions required by this paragraph.

(h) Retained Drain Hole Enlargement

This paragraph restates the requirements of paragraph (b) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised service bulletin requirements. For airplanes identified in paragraph (g) of this AD: Within 1 year after January 20, 1986 (the effective date of AD 84–20–03 R1, Amendment 39–5183 (50 FR 51235, December 16, 1985)), accomplish the drain hole enlargement as shown in Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. After the effective date of this AD, use only Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, to do the actions required by this paragraph.

(i) Retained Corrective Action With Revised Compliance Methods

This paragraph restates the requirements of paragraph (c) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised compliance methods. If cracking or corrosion is found during any inspection required by paragraph (g) or (j) of this AD: Before further flight, repair according to paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) If the inspection was done before the effective date of this AD: Repair according to Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000.

(2) If the inspection was done on or after the effective date of this AD: Repair using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

(j) Retained Repetitive Inspections Required by Paragraph (g) of This AD

This paragraph restates the requirements of paragraph (d) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised actions. For airplanes identified in paragraph (g) of this AD: Repeat the visual inspections and corrosion inhibitor treatment specified in paragraph (g) of this AD at intervals not to exceed 2 years. Accomplishment of the initial aft pressure bulkhead inspection required by paragraph (k) of this AD terminates the inspection required by this paragraph.

(k) Retained Aft Bulkhead Detailed Inspection

This paragraph restates the requirements of paragraph (e) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised terminating action. Do a detailed inspection for cracking or corrosion of the aft pressure bulkhead at BS 1016 (including the forward and aft sides of the pressure web, forward and aft sides of the pressure chord, pressure chord radius,

forward and aft sides of the angle stiffener, forward and aft chord, stringer end fitting, system penetration doublers, channel stiffeners and fasteners, ''Z'' stiffeners and fasteners, and fasteners common to the pressure chord and pressure web), according to Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Do this inspection at the applicable time shown in paragraph (k)(1), (k)(2), or (k)(3) of this AD.

(1) For airplanes on which an inspection has previously been done according to the requirements of paragraph (g) of this AD: Do the inspection within 2 years since the most recent inspection according to paragraph (g) or (j) of this AD, as applicable. For the airplanes identified in paragraph (g) of this AD, accomplishment of the inspection required by paragraph (k) of this AD terminates the inspections for cracking and corrosion required by paragraph (j) of this AD.

(2) For airplanes having L/Ns 930 through 1042 inclusive, on which an inspection has not previously been done according to paragraph (g) of this AD: Do the inspection within 2 years after June 27, 2002 (the effective date AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002)).

(3) For airplanes having L/Ns 1043 through 3132 inclusive, on which an inspection has not previously been done according to paragraph (g) of this AD: Do the inspection within 6 years since the airplane's date of manufacture, or within 2 years after June 27, 2002 (the effective date AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002)), whichever occurs later.

(l) Retained Repetitive Inspections

This paragraph restates the requirements of paragraph (f) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised compliance times. Repeat the inspection in paragraph (k) of this AD at the applicable time shown in paragraph (l)(1) or (l)(2) of this AD.

(1) For airplanes having L/Ns 1 through 1042 inclusive: Repeat the inspection thereafter at intervals not to exceed 2 years.

(2) For airplanes having L/Ns 1043 through 3132 inclusive: Repeat the inspection thereafter within 2 years since the last inspection or within 120 days after the effective date of this AD, whichever occurs later.

(m) Retained Repair

This paragraph restates the requirements of paragraph (g) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised repair requirements. If any corrosion or cracking is found during any inspection according to paragraph (k) or (l) of this AD: Do the applicable action specified in paragraph (m)(1) or (m)(2) of this AD.

(1) If the inspection was done prior to the effective date of this AD: Before further flight, repair according to Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Exception: If corrosion or cracking of the web and stiffeners is outside the limits specified in Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, or if corrosion or cracking is found in any structure not covered by the repair instructions in Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, before further flight, repair according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), or per data meeting the type certification basis of the airplane approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) After the effective date of this AD, if any corrosion or cracking is found during any inspection required by this AD: Before further flight, repair the corrosion or cracking using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

(n) New Drain Path Repetitive Inspection

For airplanes having L/N 1 through 3132 inclusive: Within 2 years since the last inspection in accordance with paragraph (k) of this AD or within 2 years after the effective date of this AD, whichever occurs later: Do a general visual inspection of the drain path in the chord frame for debris. Remove any obstruction to the drain hole in the frame chord and replace any deteriorated leveling compound. Treat the area of inspection with corrosion inhibitor BMS 3–23, or equivalent. Repeat the actions required by this paragraph at intervals not to exceed 2 years. Do all actions required by this paragraph in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. For the purposes of this AD, a general visual inspection is a visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.

(o) New Optional Repetitive Aft Pressure Bulkhead Inspection for Certain Airplanes and Corrective Action

For airplanes having L/Ns 1043 through 3132 inclusive: In lieu of performing the inspection required by paragraph (l) of this AD, operators may do the actions specified in this paragraph. Within 2 years from the most recent aft pressure bulkhead inspection done as specified in Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000; or within 120 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracking or corrosion of the aft side of the aft pressure bulkhead at BS 1016 (including the aft sides of the pressure web, aft sides of the pressure chord, pressure chord radius, aft chord, stringer end fitting, system penetration doublers, and fasteners common to the pressure chord and pressure web), in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. If any corrosion or cracking is found: Before further flight, repair the corrosion or cracking using a method approved in accordance with the procedures specified in paragraph (p) of this AD. Repeat the inspection thereafter at intervals not to exceed 90 days. Within 2 years after the initial inspection done in accordance with this paragraph: Do the actions specified in paragraph (k) of this AD, and repeat thereafter at intervals not to exceed 2 years.

(p) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes ODA that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), are approved as AMOCs for the corresponding provisions of this AD.

(q) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6450; fax: (425) 917–6590; email: *alan.pohl@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 9, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19925 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0695; Directorate Identifier 2011–NM–264–AD]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aerosystems Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Saab AB, Saab Aerosystems Model 340A (SAAB/SF340A) and SAAB 340B airplanes modified by Supplemental Type Certificate SA7971SW. This proposed AD was prompted by reports of smoke, a burning odor, and possible fire in the flight deck and cabin of the airplane, which was caused by brushes wearing beyond their limits, in the air conditioning motor. This proposed AD would require an inspection to determine if a certain air compressor motor is installed, an inspection to determine the age of a certain compressor hour meter since new or overhauled, and repetitive replacement of the brushes on affected air conditioning compressor motor units. As an option to the replacement, this proposed AD allows pulling the air conditioning circuit breaker and adding a placard. We are proposing this AD to detect and correct worn brushes contacting the commutator, which could result in a fire under the cabin floor with no means to detect or extinguish the fire.

DATES: We must receive comments on this proposed AD by September 30, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Gregory Thiele, Aerospace Engineer, Special Certification Office, ASW–190, FAA, 2601 Meacham Boulevard, Fort Worth, TX 76137; phone: (817) 222–5229; fax: (817) 222–5785; email: *gregory.thiele@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0695; Directorate Identifier 2011–NM–264–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received reports of smoke, a burning odor, and possible fire in the flight deck and cabin of the airplane, which was caused by brushes wearing beyond their limits, in the air conditioning motor. The rivets in the brush contacted the commutator, which caused sparks (the ignition source). The air conditioners (two units) are located under the floor, forward of the wing box. There is no fire detection or fire extinguishing equipment in the installed location. This condition (worn brushes contacting the commutator), if not corrected, could result in a fire under the cabin floor with no means to detect or extinguish the fire.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require an inspection to determine if a certain air compressor motor is installed, an inspection to determine the age of a certain compressor hour meter since new or overhauled, and repetitive replacement of the brushes on affected air conditioning compressor motor units. As an option to the replacement, this proposed AD allows pulling the air conditioning circuit breaker and adding a placard. This proposed AD also requires sending the inspection results to the FAA.

This proposed AD contains detailed steps to address the unsafe condition rather than referring to service information. However, under the provisions of paragraph (p) of this proposed AD, operators may request approval of an alternative method of compliance (AMOC), if sufficient data are submitted to substantiate that the AMOC would provide an acceptable level of safety.

Interim Action

We consider this proposed AD interim action. The inspection reports that would be required by this proposed AD will enable us to obtain better insight into the nature, cause, and extent of the brush wear, and eventually to develop final action to address the unsafe condition. Once final action has been identified, we might consider further rulemaking.

Costs of Compliance

We estimate that this proposed AD affects 23 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection, drive motor assembly brush replacement; and parts return and report.	11 work-hours × $85 per hour = $935 per replacement cycle.	$252 per replacement cycle.	$1,187 per replacement cycle.	$27,301 per replacement cycle.

Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Saab AB, Saab Aerosystems: Docket No. FAA–2013–0695; Directorate Identifier 2011–NM–264–AD.

(a) Comments Due Date

We must receive comments by September 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aerosystems Model 340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, that have been modified as specified in Supplemental Type Certificate SA7971SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/CE3676EDFD53938785256CC20058E501?OpenDocument&Highlight=sa7971sw*).

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Unsafe Condition

This AD was prompted by reports of smoke, a burning odor, and possible fire in the flight deck and cabin of the airplane, which were caused by brushes wearing beyond their limits, in the air conditioning motor. We are issuing this AD to detect and correct worn brushes contacting the commutator, which could result in a fire under the cabin floor with no means to detect or extinguish the fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Part Number (P/N) Inspection

Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first: Inspect the air conditioner (A/C) compressor motor to determine if P/N 1134104–1 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the A/C compressor motor can be conclusively determined from that review.

(h) Inspection of Compressor Hour Meter and Maintenance Records

If, during the inspection required by paragraph (g) of this AD, any A/C compressor motor is found having P/N 1134104–1: Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first, determine the hour reading on the A/C compressor hour meter as specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Inspect the number of hours on the A/C compressor hour meter.

(2) Check the airplane logbook for any entry for replacing the A/C compressor motor brushes with new brushes, or for replacing the compressor motor or compressor condenser module assembly (pallet) with a motor or assembly that has new brushes.

(i) If the logbook contains an entry for replacement of parts as specified in paragraph (h)(2) of this AD, determine the number of hours on the A/C compressor motor brushes by comparing the number of hours on the compressor motor since replacement and use this number in lieu of the number determined in paragraph (h)(1) of this AD.

(ii) If, through the logbook check, the number of hours on the A/C compressor motor brushes cannot be positively determined as specified in paragraph (h)(2) of this AD, use the number of hours on the A/C compressor hour meter determined in paragraph (h)(1) of this AD, or assume the brushes have over 500 hours time-in-service.

(i) Replacement

Except as provided by paragraph (k) of this AD: Using the hour reading on the A/C compressor hour meter determined in paragraph (h) of this AD, replace the A/C compressor motor brushes with new brushes at the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD. Thereafter, repeat the replacement of the A/C compressor motor brushes at intervals not to exceed every 500 hours time-in-service on the A/C compressor motor. Do the replacement in accordance with the actions specified in paragraph (j) of this AD.

(1) Before or when the A/C compressor motor reaches a total of 500 hours time-in-service. Or,

(2) Before further flight after the inspection required by paragraph (h) of this AD.

(j) Motor Brush Replacement Instructions

Do the actions specified in paragraphs (j)(1) through (j)(23) of this AD to replace the compressor motor brushes as required by paragraph (i) of this AD:

(1) New brushes may be installed by first level maintenance personnel only under the conditions listed in paragraphs (j)(1)(i) through (j)(1)(iv) of this AD. If these conditions are not met, deactivate the A/C in accordance with paragraph (k)(1) of this AD until the conditions listed in paragraphs (j)(1)(i) through (j)(1)(iv) of this AD are met, or the entire compressor motor is replaced.

(i) Motor was operating correctly prior to brush replacement.

(ii) The motor is tested to verify proper operation and does not show any defects that would require motor replacement.

(iii) Only approved vendor brushes are used (P/N 1251171).

(iv) Brushes are installed, seated, and tested in accordance with paragraphs (j)(2) through (j)(23) of this AD.

(2) Verify all electrical power is off to the system.

(3) Remove all access panels and exhaust ducts to gain access to the drive motor.

(4) Disconnect power leads from motor terminals (1/4–28). Tag the positive lead.

(5) Remove condenser support bracket to provide access to brush cover fasteners and remove motor cuff shroud.

(6) Loosen and unsnap brush cover assembly. Remove from the motor.

(7) Verify all power is off, and that all panels, shrouds, brackets, and fairings are removed.

(8) With a stiff wire hook or scribe, lift brush spring from holder and remove each worn brush set until all four sets are removed.

(9) Remove brush shunt wire terminal screw. Continue this step until all four screws are removed.

(10) With brushes removed and using shop air at 30–40 pounds per square inch gauge (psig) and nozzle, blow out as much carbon and/or copper dust as possible from the commutator, armature, and field windings. Purge from the commutator end of the motor.

(11) Install each new brush set by lifting brush springs, sliding brush into holder (with brush leading edge in direction of motor rotation) and lightly releasing the brush spring on the brush. (See Figure 1 to paragraph (m)(2)(vii) of this AD). CAUTION: Do not allow brush spring to strike hard into place or damage to brush may result.

(12) Verify that the brush seats flat on the commutator and that no binding in the holder is present. Align brush spring in center of brush groove.

(13) Install terminal screw and lock washer on brush shunt lead and other leads and tighten. Repeat this step for other brush sets. Torque to 15–20 in.-lbs. CAUTION: Do not cross thread or over torque brush lead screws or thread damage may result.

(14) Seat new brushes in accordance with paragraph (j)(15) of this AD. All new brushes must be seated to assure proper motor operation and/or performance.

(15) Brush Seating Procedure: Cut a 7 inch long by 1.5 inch wide (±0.125 inch, both dimensions) strip of 400–500 grit sand paper and place, with rough side out, on commutator. Secure one end of the paper to the commutator with masking tape in a manner such that the taped end will lead in the direction of shaft rotation (counter-clockwise looking at fan end). The other end will remain loose and overlap the taped end. Raise each brush momentarily while rotating the shaft until the taped end passes under each brush. After the sand paper is properly located tight against the commutator and encompasses all brush surface areas, carefully rotate the armature, by hand, in the normal direction of rotation until a full seat is obtained on each new brush. Three or four rotations is usually adequate. Excessive seating is not advised. Brush life may be reduced.

(16) Remove sand paper and blow out all carbon dust from the commutator and brush area. CAUTION: Eye, nose and throat protection must be worn during this procedure.

(17) Carefully lay brush shunt leads in position such as to prevent any shorting problems. Leads must be able to easily follow brush and spring movement as brush wear occurs.

(18) Replace brush cover and attach motor power cables, if required.

(19) Replace all bracketry and hardware removed to access motor.

(20) Assure that brackets are properly installed, cooling fan does not interfere with shroud, motor drive belt aligned/tensioned, and belt cover is installed.

(21) The motor should be tested to verify proper operation. Therefore, connect ground power source or verify aircraft power is on and turn system on.

(22) Run system for a minimum of 15 minutes to seat brushes and check motor operation.

(23) Turn system and aircraft power off. System is ready for use.

(k) Deactivation/Reactivation

(1) In lieu of replacing the A/C compressor motor brushes as required by paragraphs (i) and (j) of this AD, before further flight, deactivate the A/C by doing the actions specified in paragraph (k)(1)(i) or (k)(1)(ii) of this AD, as applicable.

(i) Single System: Pull the compressor control circuit breaker (cockpit right-hand 10VU panel, ''REAR AIR COND''); install a placard by the A/C selection switch (co-pilot's side panel) prohibiting use of the air conditioner; and document deactivation of the system in the airplane logbook referring to this AD as the reason for deactivation.

(ii) Dual System: Pull the compressor control circuit breakers (cockpit right-hand 10VU panel, ''REAR AIR COND,'' and cockpit left-hand 9VU panel, ''FWD AIR COND''); install a placard (or placards) by the A/C selection switches (co-pilot's side panel) prohibiting use of the air conditioners; and document deactivation of the system in the airplane logbook referring to this AD as the reason for deactivation.

(2) If an operator chooses to deactivate the system and then later chooses to return the airplane to service: Before returning the A/C system to service and removing the placard(s), do the inspection specified in paragarph (g) of this AD, and, as applicable, the inspection specified in paragraph (h) of this AD, and the replacements specified in paragraph (i) of this AD at the times specified in paragraph (i) of this AD.

(l) Parts Installation Limitation

As of the effective date of this AD, no person may install an A/C compressor motor having P/N 1134104–1 on any airplane, unless the inspection specified in paragraph (h) of this AD has been done, and the replacements specified in paragraph (i) of this AD are done at the times specified in paragraph (i) of this AD.

(m) Reporting Requirement

Submit a report of the results of the determination of hours required by paragraph (h) of this AD to the Special Certification Office, ASW–190, Attn: Gregory Thiele, Aerospace Engineer, 2601 Meacham Boulevard, Fort Worth, TX 76137; or email to: *9-ASW-190-COS@faa.gov.* The report must include the information specified in paragraphs (m)(1) through (m)(4) of this AD.

(1) The model and serial number of the airplane.

(2) The elapsed amount of flight hours since the last brush/motor replacement, if known.

(3) The amount of hours on the hour meter of the A/C compressor motor.

(4) The amount of wear on the brushes (including overall length and total calculated wear), calculated as specified in paragraphs (m)(4)(i) through (m)(4)(ix) of this AD.

(i) Verify all electrical power is off to system.

(ii) Remove all access panels and exhaust ducts to gain access to the drive motor.

(iii) Disconnect power leads from motor terminals (1/4–28). Tag positive lead.

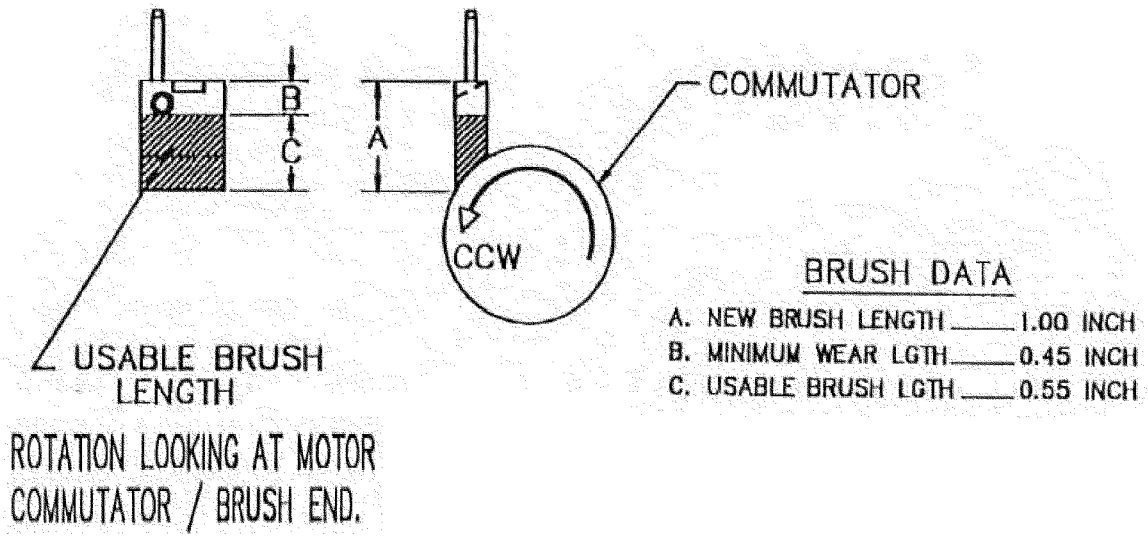
(iv) Remove condenser support bracket to provide access to brush cover fasteners and remove motor cuff shroud.

(v) Loosen and unsnap brush cover assembly. Remove from motor.

(vi) With wire hook or scribe, lift brush spring and remove brush.

(vii) Measure each brush as shown in figure below and record values.

Figure 1 to paragraph (m)(2)(vii) of this AD – Measuring the Brush



(viii) Using the brush with the shortest measured length calculate the wear by subtracting the measured value from 1.000 inch.

(ix) Replace brushes in accordance with the instructions specified in paragraphs (j)(9) through (j)(23) of this AD.

(n) Reporting Compliance Time

Submit the report required by paragraph (m) of this AD at the applicable time specified in paragraph (m)(1) or (m)(2) of this AD.

(1) If the determination of hours was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the determination of hours was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(o) Special Flight Permit

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to an appropriately rated repair station, provided that the A/C is deactivated as specified in paragraph (k)(1) of this AD on airplanes on which the A/C has been operated for 500 hours or more, and replacement brushes are not available.

(p) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Special Certification Office, ASW–190, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Special Certification Office, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(q) Related Information

For more information about this AD, contact Gregory Thiele, Aerospace Engineer, Special Certification Office, ASW–190, FAA, 2601 Meacham Boulevard, Fort Worth, TX 76137; phone: (817) 222–5229; fax: (817) 222–5785; email: *gregory.thiele@faa.gov.*

Issued in Renton, Washington, on August 9, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19926 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0641; Airspace Docket No. 13–AGL–7]

Proposed Establishment of Class E Airspace; Sisseton, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Sisseton, SD. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Sisseton Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before September 30, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0641/Airspace Docket No. 13–AGL–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0641/Airspace Docket No. 13–AGL–7.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 10.7-mile radius to accommodate new standard instrument approach procedures at Sisseton Municipal Airport, Sisseton, SD. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Sisseton Municipal Airport, Sisseton, SD.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Sisseton, SD [New]

Sisseton Municipal Airport, SD
(Lat. 45°40′10″ N., long. 96°59′37″ W.)

That airspace extending upward from 700 feet above the surface within a 10.7-mile radius of Sisseton Municipal Airport.

Issued in Fort Worth, TX on August 2, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19992 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0607; Airspace Docket No. 13–ACE–13]

Proposed Establishment of Class E Airspace; Loup City, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Loup City, NE. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Loup City Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before September 30, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200

New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0607/Airspace Docket No. 13–ACE–13, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0607/Airspace Docket No. 13–ACE–13.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7.7-mile radius to accommodate new standard instrument approach procedures at Loup City Municipal Airport, Loup City, NE. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Loup City Municipal Airport, Loup City, NE.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Loup City, NE [New]

Loup City Municipal Airport, NE
(Lat. 41°17′12″ N., long. 98°59′25″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Loup City Municipal Airport.

Issued in Fort Worth, TX, on August 2, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19997 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1 and 16

[Docket Nos. FDA–2011–N–0143 and FDA–2011–N–0146]

Food and Drug Administration Food Safety Modernization Act: Proposed Rules on Foreign Supplier Verification Programs and the Accreditation of Third-Party Auditors/Certification Bodies; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a public meeting to discuss two proposed rules aimed at strengthening assurances that imported food meets the same safety standards as food produced domestically. The Foreign Supplier Verification Programs (FSVP) proposal establishes requirements for importers to verify that their foreign suppliers are implementing the modern, prevention-oriented food safety practices called for by the Food Safety Modernization Act (FSMA) and achieving the same level of food safety as domestic growers and processors. The second proposed rule on the Accreditation of Third-Party Auditors/Certification Bodies would strengthen the quality, objectivity, and transparency of foreign food safety audits on which many U.S. food companies and importers currently rely to help manage the safety of their global food supply chains. The purpose of the public meeting is to solicit oral stakeholder and public comments on the proposed rules and to inform the public about the rulemaking process (including how to submit comments, data, and other information to the rulemaking dockets), and to respond to questions about the proposed rules.

DATES: See section II, ''How to Participate in the Public Meetings'' in the **SUPPLEMENTARY INFORMATION** section for dates and times of the public meeting, closing dates for advance registration, and information on deadlines for submitting either electronic or written comments to FDA's Division of Dockets Management.

ADDRESSES: See section II, ''How to Participate in the Public Meetings'' in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: *For questions about registering for the meeting, to register by phone, or to submit a notice of participation by mail, fax, or email:* Peggy Walker, Planning Professionals, Ltd., 1210 West McDermott Dr., Suite 111, Allen, TX 75013, telephone: 469–854–6991, FAX: 469–854–6992, email: *pwalker@planningprofessionals.com.*

For general questions about the meeting, to request an opportunity to make an oral presentation at the public meeting, to submit the full text, comprehensive outline, or summary of an oral presentation, or for special accommodations due to a disability, contact: Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, telephone: 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FSMA (Pub. L. 111–353), was signed into law by President Obama on January 4, 2011, to better protect public health by helping to ensure the safety and security of the food supply. FSMA amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish the foundation of a modernized, prevention-based food safety system. Among other things, FSMA requires FDA to issue regulations requiring preventive controls for human food and animal food, set standards for produce safety, and require importers to have a program to verify that the food products they bring into the United States are produced in a manner consistent with U.S. standards.

FSMA was the first major legislative reform of FDA's food safety authorities in more than 70 years, even though FDA has increased the focus of its food safety efforts on prevention over the past several years. In the **Federal Register** of January 16, 2013 (78 FR 3503 and 78 FR 3646), FDA announced the establishment of two dockets so that the public can review the produce safety proposed rule and the preventive controls proposed rule for human food and submit comments to the Agency. These proposed rulemakings were the first of several key proposals in furtherance of FSMA's food safety mandate. For information on the produce safety proposed rule, the preventive controls proposed rule and related fact sheets see FDA's FSMA Web page located at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm.*

In the **Federal Register** of July 29, 2013 (78 FR 45729 and 78 FR 45781) FDA announced the second set of FSMA proposed rules and the establishment of two additional dockets so that the public can review the proposals on FSVP and the Accreditation of Third-Party Auditors/Certification Bodies and submit comments to the Agency. Under the proposed FSVP rule, those importing FDA-regulated food into the United States will be held accountable for verifying that their suppliers produce food in a manner consistent with U.S. standards. Under the proposed rule that would establish the Accreditation of Third-Party Auditors/Certification Bodies program, FDA would recognize accreditation bodies based on certain criteria such as competency and impartiality. The accreditation bodies, which could be foreign governments or their agencies or private companies, would in turn accredit third-party auditors to audit and issue certifications for foreign food facilities and food.

FDA is announcing a series of public meetings entitled ''The Food Safety Modernization Act Public Meeting on Proposed Rules for Foreign Supplier Verification Programs (FSVP) and for the Accreditation of Third-Party Auditors/Certification Bodies for Imported Food Public Meeting'' so that the food industry, consumers, foreign governments, and other stakeholders can better evaluate and comment on the proposals. The Washington, DC public meeting is the first of three that the Agency plans to hold during the proposed rules' comment period. We intend to hold the additional public meetings in diverse geographical regions of the United States. Specific locations, dates, and registration information for these meetings will appear in a separate **Federal Register** notice to publish shortly. All three public meetings will have the same agenda and are intended to facilitate and support the proposed rules' evaluation and commenting process.

II. How To Participate in the Public Meetings

FDA is holding the public meetings on the FSVP and the Accreditation of Third-Party Auditors/Certification Bodies proposed rules to inform the public about the rulemaking process, including how to submit comments, data, and other information to the rulemaking docket; to respond to questions about the proposed rules; and to provide an opportunity for interested persons to make oral presentations. Due to limited space and time, FDA encourages all persons who wish to attend the meetings to register in advance. There is no fee to register for the public meetings, and registration will be on a first-come, first-served basis. Early registration is recommended

because seating is limited. Onsite registration will be accepted, as space permits, after all preregistered attendees are seated.

Those requesting an opportunity to make an oral presentation during the time allotted for public comment at the meeting are asked to submit a request and to provide the specific topic or issue to be addressed. Due to the anticipated high level of interest in presenting public comment and limited time available, FDA is allocating 3 minutes to each speaker to make an oral presentation. Speakers will be limited to making oral remarks; there will not be an opportunity to display materials such as slide shows, videos, or other media during the meeting. If time permits, individuals or organizations that did not register in advance may be granted the opportunity to make an oral presentation. FDA would like to maximize the number of individuals who make a presentation at the meeting and will do our best to accommodate all persons who wish to make a presentation or express their opinions at the meeting.

FDA encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative. After reviewing the presentation requests, FDA will notify each participant before the meeting of the approximate time their presentation is scheduled to begin and remind them of the presentation format (i.e., 3-minute oral presentation without visual media).

While oral presentations from specific individuals and organizations will be necessarily limited due to time constraints during the public meeting, stakeholders may submit electronic or written comments discussing any issues of concern to the administrative record (the docket) for the rulemaking. All relevant data and documentation should be submitted with the comments to the relevant docket, i.e., FSVP, Docket No. FDA–2011–N–0143, or accreditation of third-party auditors, Docket No. FDA–2011–N–0146.

Table 1 of this document provides information on participation in the public meeting:

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO THE RULEMAKING DOCKETS

	Date	Electronic address	Address	Other information
Public meeting ...	September 19, 2013, from 8:30 a.m. to 5 p.m. and September 20, 2013, from 8:30 a.m. to 12:30 p.m.		Omni Shoreham Hotel, 2500 Calvert St. NW. (at Connecticut Ave.), Washington, DC 20008.	Onsite registration both days from 8 a.m. to 8:30 a.m.
Advance registration.	By September 10, 2013.	Individuals who wish to participate in person are asked to preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.	We encourage you to use electronic registration if possible.[1]	There is no registration fee for the public meetings. Early registration is recommended because seating is limited.
Request to make an oral presentation.	By August 29, 2013.	http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.[2]	.....	Requests made on the day of the meeting to make an oral presentation will be granted as time permits. Information on requests to make an oral presentation may be posted without change to *http://www.regulations.gov,* including any personal information provided.
Request special accommodations due to a disability.	By August 29, 2013.	Juanita Yates, email: *Juanita.yates@fda.hhs.gov*.	See **FOR FURTHER INFORMATION CONTACT**.	
Submit electronic or written comments.	By November 26, 2013.	Docket Nos. FDA–2011–N–0143 and FDA–2011–N–0146.		

[1] You may also register via email, mail, or FAX. Please include your name, title, firm name, address, and phone and FAX numbers in your registration information and send to: Peggy Walker, Planning Professionals, Ltd., 1210 West McDermott Dr., suite 111, Allen, TX 75013, telephone: 469–854–6991, FAX: 469–854–6992, e-mail: *pwalker@planningprofessionals.com.* Onsite registration will also be available.

[2] You may also request to make an oral presentation at the public meetingv via email. Please include your name, title, firm name, address, and phone and FAX numbers as well as the full text, comprehensive outline, or summary of your oral presentation and send to: Juanita Yates, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy, College Park, MD 20740, telephone: 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

III. Comments, Transcripts, and Recorded Video

Information and data submitted voluntarily to FDA during the public meeting will become part of the administrative record for the relevant rulemaking and will be accessible to the public at *http://www.regulations.gov.* The transcript of the proceedings from the public meeting will become part of the administrative record for each of the rulemakings. Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov* and at FDA's FSMA Web site at: *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm.* It may also be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of

Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Additionally, FDA will be video recording the public meeting. Once the recorded video is available, it will be accessible at FDA's FSMA Web site at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm.*

Dated: *August 13, 2013.*

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–19961 Filed 8–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2013–N–0888]

Dean Foods Company and WhiteWave Foods Company; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition submitted by the Dean Foods Company and the WhiteWave Foods Company proposing that the food additive regulations be amended to provide for the expanded safe uses of vitamin D_2 and vitamin D_3 as nutrient supplements in food.

DATES: The food additive petition was filed on June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1071.

SUPPLEMENTARY INFORMATION: Under section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(5)), we are giving notice that we have filed a food additive petition (FAP 3A4801), submitted by the Dean Foods Company and the WhiteWave Foods Company, c/o Hogan Lovells US LLP, Columbia Square, 555 Thirteenth Street NW., Washington, DC 20004. The petition proposes to amend 21 CFR 172.379 to provide for the safe use of vitamin D_2 as a nutrient supplement in edible plant-based food products intended for use as alternatives to milk and milk products and to amend 21 CFR 172.380 to provide for the safe use of vitamin D_3 as a nutrient supplement in milk at levels higher than those currently permitted.

We have determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 12, 2013.

Dennis M. Keefe,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2013–19915 Filed 8–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113; Docket ID: BIA–2013–0005]

RIN 1076–AF15

Land Acquisitions: Appeals of Land Acquisition Decisions

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Reopening of comment period.

SUMMARY: In May, the Bureau of Indian Affairs (BIA) published a proposed rule revising a section of regulations governing decisions by the Secretary to approve or deny applications to acquire land in trust. The public comment period for that rule closed in July. This notice reopens the comment period for 15 days.

DATES: Comments on the proposed rule published May 29, 2013 (78 FR 32214) must be received by September 3, 2013.

ADDRESSES: You may submit comments by any of the following methods, though the Federal rulemaking portal or email are the preferred methods:

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2013–0005.

—*Email: consultation@bia.gov.* Include the number 1076–AF15 in the subject line of the message.

—*Mail* or *hand delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS–4141, Washington, DC 20240. Include the number 1076–AF15 in the submission.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

On May 29, 2013, BIA published a proposed rule revising 25 CFR 151.12 (78 FR 32214). The proposed rule would remove procedural requirements that are no longer necessary in light of the *Patchak* Supreme Court decision and increase transparency by better articulating the process for issuing decisions to acquire land in trust under 25 CFR part 151. The comment period for the proposed rule closed July 29, 2013. With this notice, BIA is reopening the comment period for an additional 15 days, in response to requests it received from commenters for additional time.

BIA will also consider any comments that it received between the close of the orginial comment period on July 29, 2013 and the reopening of the comment period on August 16, 2013. If you submitted comments during this period, there is no need to resubmit them.

Dated: August 9, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–19947 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–6W–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0455; FRL–9900–12-Region 4]

Approval and Promulgation of Implementation Plans; Tennessee; Revisions to the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Knox County portion of the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on December 13,

2012. The SIP submittal revises the definition of ''Modification'' in Knox County Air Quality Management Regulation Section 13 *Definitions.* TDEC considers Knox County's SIP revision to be as or more stringent than the Tennessee SIP requirements. EPA is approving the Knox County SIP revision because the State has demonstrated that it is consistent with the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before September 16, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0455, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4–RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2013–0455,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0455. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Analysis of Knox County's Submittals

On December 13, 2012, TDEC submitted a SIP revision to EPA for approval into the Knox County portion of the Tennessee SIP. Specifically, the December 13, 2012, SIP revises the definition of ''Modification'' in Knox County Regulation, section 13.0—*Definitions.* The additions of subparagraphs E and F to the definition of ''Modification'' allows the local permit program authority to provide adequate, streamlined, and reasonable procedures for expeditiously processing permit changes by excluding certain modifications from construction permitting. The addition of subparagraph E provides that certain modifications (physical/method of operation) at major sources that are not considered Title I modifications do not require construction permits. Specifically, modifications at such sources that qualify: (1) As Title V operational flexibility changes (CAA section 502(b)(10)); (2) as minor permit modifications; or (3) for group processing of minor modifications will not require construction permits. *See* 40 CFR 70.7 for more detailed information on permit modifications.

The addition at subparagraph F establishes criteria for which a physical change or change in the method of operation for a minor source does not need a construction permit. These criteria include: (1) The change is not subject to the requirements of the Knox County Title V program (at section 25.70), Prevention of Significant Deterioration (PSD) at Section 45.0 and new source review (NSR) permitting regulations at Section 41.0[1]; (2) the emissions from the modification does not exceed the allowable emissions established in an existing permit; or (3) the change does not result in emissions from a new contaminant or pollutant.

II. Proposed Action

EPA is proposing to approve the aforementioned change to Knox County portion of the Tennessee SIP, because it is consistent with EPA policy and the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

[1] EPA notes that the language at subparagraph F that states ''The change is not subject to requirements of a Title V Operating Permit (Section 25.70), a New Source Review Permit (Section 41.0), or a Prevention of Significant Deterioration Permit (Section 45.0);'' refers to the actual Knox County title V, PSD and NSR permitting regulations and not to an actual permit, as clarified in a email from Knox County on June 7, 2013.

merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposal does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 7, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–20022 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0394; FRL–9845–4]

Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern sulfur oxide emissions from lead smelters and volatile organic compounds (VOC) emissions from the data storage and vacuum producing device industries. We are proposing to rescind local rules that regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments must arrive by September 16, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0394 by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Robert Marinaro, EPA Region IX, (415) 972–3019, *marinaro.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: AVAQMD Rule 1101, ''Secondary Lead Smelters/Sulfur Oxides;'' VCAPCD Rule 37, ''Project XL;'' and VCAPCD Rule 67, ''Vacuum Producing Devices.'' In the Rules and Regulations section of this **Federal Register**, we are approving rescission of these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comments on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information please see the direct final action.

Dated: July 26, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–19874 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9846–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Torch Lake Superfund Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The U.S. Environmental Protection Agency Region 5 is issuing a Notice of Intent to Delete the Quincy Smelter and Calumet Lake parcels of OU3 of the Torch Lake Superfund Site (Site), located in Houghton County, Michigan, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five year reviews, at these identified parcels have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface tailings and slag deposits of the Quincy Smelter and Calumet Lake parcels of OU3. The following parcels or areas will remain on the NPL and are not being considered for deletion as part of this action: Dollar Bay, Point Mills, Boston Pond, and North Entry.

DATES: Comments must be received by September 16, 2013.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov:* Follow online instructions for submitting comments.
- *Email:* Nefertiti DiCosmo, Remedial Project Manager, at *mailto:dicosmo.nefertiti@epa.gov* or Dave Novak, Community Involvement Coordinator, at *novak.dave@epa.gov.*
- *Fax:* Gladys Beard at (312) 697–2077.
- *Mail:* Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148 or Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–7478 or toll free at 1 (800) 621–8431.
- *Hand delivery:* Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- Lake Linden/Hubbell Public Library, 601 Calumet Street, Lake Linden, MI 49945, Phone: (906) 296–6211, Summer Hours: Tuesday and Thursday, 6:00 p.m. to 8:00 p.m. EST; Wednesday, 9:00 a.m. to 2:00 p.m. EST, Winter Hours: Monday through Friday, 8:00 a.m. to 3:30 p.m. EST (when school is in session); Tuesday and Thursday, 3:30 p.m. to 8:30 p.m. EST
- Portage Lake District Library, 58 Huron Street, Houghton, MI 49931, Phone: (906) 482–4570, Hours: Monday through Thursday, 10:00 a.m. to 8:00 p.m. EST; Friday, 10:00 a.m. to 5:00 p.m. EST; and Saturday, 10:00 a.m. to 3:00 p.m. EST

FOR FURTHER INFORMATION CONTACT: Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6148, *dicosmo.nefertiti@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Partial Deletion for the Quincy Smelter and Calumet Lake parcels of OU3 of the Torch Lake Superfund Site without prior Notice of Intent for Partial Deletion because EPA views this as a noncontroversial revision and anticipates no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice for Partial Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this partial deletion action, we will not take further action on this Notice of Intent for Partial Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice for Partial Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Partial Deletion based on this Notice

of Intent for Partial Deletion. We will not institute a second comment period on this Notice of Intent for Partial Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Partial Deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 25, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–19758 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–117

[FMR Case 2013–102–1; Docket 2013–0009, Sequence 1]

RIN 3090–AJ35

Federal Management Regulation (FMR); Obligating Authority

AGENCY: Office of Governmentwide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The U.S. General Services Administration (GSA) is proposing to amend the Federal Management Regulation (FMR) to recommend that agencies, as defined in § 102–117.25, provide written authority to Transportation Officers who acquire transportation services utilizing a rate tender acquisition. This written authority would help agencies manage the billions of dollars that the Government spends annually on transportation. This proposed rule, if adopted, would describe procedures that agencies should follow to delegate authority to Transportation Officers and includes experience and training requirements that a Transportation Officer should meet before being authorized to acquire transportation services.

DATES: Interested parties should submit comments in writing on or before October 15, 2013 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments in response to FMR Case 2013–102–1 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FMR Case 2013–102–1'' and selecting the link ''Submit a Comment'' that corresponds with ''FMR Case 2013–102–1''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FMR Case 2013–102–1'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., ATTN: Hada Flowers, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite FMR Case 2013–102–1, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Gregory, Office of Asset and Transportation Management (MA), Office of Governmentwide Policy (OGP), at 202–501–1533 or by email at *lee.gregory@gsa.gov.* Please cite FMR Case 2013–102–1. For information pertaining to status or publication schedules contact the Regulatory Secretariat at 202–501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

Agencies are authorized to procure transportation services either through the Federal Acquisition Regulation (FAR), by utilizing a contract, or via 49 U.S.C. 10721 (for rail transportation), 49 U.S.C. 13712 (for surface transportation), or 49 U.S.C. 15504 (for pipeline transportation) utilizing rate tenders.

Rate tenders are an alternative method of acquiring transportation services that is neither mandatory nor exclusive. In order to determine which method is better suited for the acquisition of transportation services, an evaluation of the transportation services to be acquired must be made. The FMR discusses the criteria for choosing between rate tender and FAR acquisitions in FMR sections 102–117.30 through 102–117.55.

The FAR requires that a Contracting Officer (CO) receive clear instructions in writing regarding the contracting officer's authority (48 CFR 1.603–3). Contracts may be entered into and signed on behalf of the Government only by a contracting officer. In contrast there is no analogous regulation for Federal Transportation Officers under which an appointing official authorizes them to acquire transportation services. However, some agencies have delegations of authority or other agency procedures in place for their workforce.

A Transportation Officer that acquires transportation services through a rate tender acquisition should be qualified and trained in transportation management or have relevant transportation experience in order to manage a rate tender acquisition properly.

GSA published a proposed rule in the **Federal Register** on May 4, 2005 (70 FR 23078) to add the recommendation that transportation managers who obligate Government funds for rate tender procurements must be properly authorized in writing, which certifies that the transportation manager is competent and trained in transportation management and has the authority to commit Government funds for the procurement of transportation or transportation services. Comments were received from four agencies (U.S. Department of State, Internal Revenue Service, U.S. Department of Agriculture, and Federal Aviation Administration). Applicable comments were incorporated into this current proposed rule, such as expanding time to phase program implementation, identifying activities that would not require a warrant, and providing flexibility for the program and requirements to the agency. Due to the length of time since the publication of the 2005 proposed rule, and because GSA's position on this issue has evolved, GSA is publishing this new proposed rule.

Section 3(a)(1) of the Travel and Transportation Reform Act of 1998 (the Act), Public Law 105–264, amended 31 U.S.C. 3322(c)(1), holding disbursing officials personally liable for overpayments other than an overpayment for the use of improper transportation rates or classifications if the Administrator of General Services has determined that verification by a prepayment audit will not adequately protect the interests of the Government. Similarly, section 3(a)(2) of the Act amended 31 U.S.C. 3528(a)(5), requiring certifying officials to verify transportation rates and classifications and holding such officials personally liable for overpayments unless the overpayment occurred solely because a prepayment audit did not verify the rate

or classification and the Administrator of General Services has determined that verification by a prepayment audit will not adequately protect the interests of the Government. These provisions were effective April 19, 2000. This proposed rule would add a reference to these statutory provisions in proposed FMR section 102–117.410.

B. Major Revisions

This proposed rule will:

- Define ''Third Party Logistics'', ''Transportation Officer'' and ''Transportation Officer Warrant'';
- Recommend that rate tender acquisitions of transportation services for an agency be performed only by a warranted Transportation Officer;
- List the suggested minimum elements of a Transportation Officer warrant;
- Outline the suggested minimum requirements for training and/or experience to be a warranted Transportation Officer;
- Recommend agency procedures for creating a warranted Transportation Officer program; and
- Refer to the liability created by Public Law 105–264, and refer the reader to FMR sections 102–118.350 through 102–118.370 for further information.

In accordance with Executive Order (EO) 13563, this proposed regulation is included in GSA's retrospective review of existing regulations at *www.gsa.gov/improvingregulations.*

C. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This is not a significant regulatory action, and therefore, will not be subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

While these revisions are substantive, this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The proposed rule is also exempt from the Administrative Procedures Act per 5 U.S.C. 553 (a)(2) because it applies to agency management or personnel policies related to Transportation management.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offeror, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management or personnel.

List of Subjects in 41 CFR Part 102–117

Transportation Management.

Dated: July 23, 2013.

Anne E. Rung,

Acting Associate Administrator, Office of Governmentwide Policy.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 102–117 as follows:

PART 102–117—TRANSPORTATION MANAGEMENT

■ 1. The authority citation for 41 CFR part 102–117 is revised to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); and 40 U.S.C. 501, *et seq.*

■ 2. Amend § 102–117.25 by alphabetically adding the definitions ''Third Party Logistics (3PL)'', ''Transportation Officer (TO)'' and ''Transportation Officer Warrant'' to read as follows:

§ 102–117.25 What definitions apply to this part?

* * * * *

Third Party Logistics (3PL) is an entity that provides multiple logistics services for use by customers. Among the transportation services 3PLs generally provide are integration transportation, warehousing, cross-docking, inventory management, packaging, and freight forwarding.

* * * * *

Transportation Officer (TO) is a person authorized, in accordance with this part, to select transportation service providers using rate tenders, including but not limited to selecting Third Party Logistics (3PL) or Transportation Service Provider (TSP) and issuing a bill of lading. The TO may also serve as the subject matter expert for a Contracting Officer.

Transportation Officer Warrant is an agency-issued document that authorizes a Transportation Officer to procure transportation services using rate tenders, select Third Party Logistics (3PL) or Transportation Service Provider (TSP), issue bills of lading, and otherwise perform the duties of a Transportation Officer.

* * * * *

■ 3. Add Subpart M, consisting of §§ 102–117.365 through §§ 102–117.410 to read as follows:

Subpart M—Recommendations for Authorization and Qualifications to Acquire Transportation Using a Rate Tender

Sec.

Subpart M—Recommendations for Authorization and Qualifications to Acquire Transportation Using a Rate Tender

§ 102–117.365 What are the responsibilities of a Transportation Officer?

Transportation Officer's duties include:

(a) Negotiating rates;

(b) Signing bills of lading;

(c) Certifying bills of lading;

(d) Approving additional accessorial charges;

(e) Selecting and procuring services of a TSP; and/or

(f) Selecting and procuring services of a 3PL.

§ 102–117.370 Should I have a Transportation Officer warrant to acquire transportation services using a rate tender?

Yes, it is recommended that you have a written document, such as a warrant, issued by the head of your agency or his/her designee, which expressly allows you to acquire transportation services using approved non-FAR acquisition methods for specified transportation services and states dollar limit or range for the warrant authority.

§ 102–117.375 Are there instances where a Transportation Officer warrant is not necessary to acquire transportation services?

Yes, a Transportation Officer warrant is not necessary to:

(a) Ship packages through a contract under the GSA Schedules program, including any Blanket Purchase Agreement, as these are Federal Acquisition Regulation (FAR) based contracts;

(b) Ship packages or other materials through any other FAR-based contract; or

(c) Send items through the United States Postal Service.

§ 102–117.380 What should be contained in a Transportation Officer warrant to acquire transportation services?

The warrant issued by the agency head or his/her designee should:

(a) State that you have sufficient experience (any combination of Federal, public, or commercial) and/or training in transportation services that qualify you to acquire transportation;

(b) List the limitations on the scope of your authority, including the maximum dollar limit and any other limits such as the types of services that you may acquire;

(c) State the minimum requirements necessary to maintain the warrant; and

(d) Include an expiration date for the warrant, recommended not to exceed three years from the date of issuance.

§ 102–117.385 Is there a standard format for a Transportation Officer warrant?

No. GSA can provide your agency with a suggested format; agencies can model the transportation officer warrant after the contracting officer warrant; or agencies may establish their own format.

§ 102–117.390 What training and/or experience is recommended for my agency to warrant me to acquire transportation services?

(a) Your agency should establish training and/or experience requirements to qualify you for a Transportation Officer warrant. The following are suggested baseline training and/or experience requirements:

(1) *For a Basic (Level 1) Transportation Officer Warrant:*

(i) Twenty-four (24) hours of training in Federal civilian transportation; or

(ii) Two years of Federal, public, or commercial experience in acquiring transportation through rate tenders.

(2) *For an Experienced (Level 2) Transportation Officer Warrant:*

(i) Thirty-two (32) hours of training in transportation, including 20 hours of training in Federal civilian transportation; or

(ii) Three years of Federal, public, or commercial experience in acquiring transportation through rate tenders.

(3) *For a Senior (Level 3) Transportation Officer Warrant:*

(i) Sixty (60) hours of training in transportation, including 40 hours of training in Federal civilian transportation; or

(ii) Five years of Federal, public, or commercial experience in acquiring transportation through rate tenders.

(b) GSA created an online eLearning Transportation Officer training site hosted by the U.S. Office of Personnel Management. The training courses provide a standard Governmentwide body of transportation knowledge. This web-based eLearning site is available at *http://transportationofficer.golearnportal.org/* and is available to all Federal agencies.

§ 102–117.395 Should I continue my training to maintain my warrant?

Yes, you should continue your training. Your agency will determine the continuing education requirements that apply specifically to your warrant. It is recommended that at least 12 hours of transportation training per year be completed in order to maintain a Transportation Officer warrant.

§ 102–117.400 How should my warrant be documented and maintained?

The head of your agency or his/her designee should state, in writing, that you have the recommended training or experience suggested by § 102–117.390. You should retain a copy of this Transportation Officer warrant. Agency heads or their designees may amend, suspend, or terminate warrants in accordance with agency policies and/or procedures.

§ 102–117.405 Are there dollar limits on transportation service acquisitions?

Yes, a limitation on the dollar amount you may acquire using your transportation officer warrant should be established by your agency and should be stated in your warrant.

§ 102–117.410 Is a Transportation Officer liable for his/her actions?

For information regarding liabilities, see 41 CFR 102–118.350 through 102–118.370, as applicable, if the Transportation Officer is also the certifying official and/or the disbursing official.

[FR Doc. 2013–19948 Filed 8–15–13; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192, 193, 195, and 199

[Docket No. PHMSA–2011–0337]

RIN 2137–AE85

Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: PHMSA is proposing to amend the pipeline safety regulations to incorporate by reference (IBR) all or parts of new, updated, or reaffirmed editions of voluntary consensus standards that are available on the Internet, free-of-charge, to the public. PHMSA is also proposing to make non-substantive edits and to clarify regulatory language in certain provisions. These proposed changes are relatively minor, and would not require pipeline operators to undertake any significant new pipeline safety initiatives.

DATES: Submit comments on the subject of this NPRM on or before October 15, 2013.

ADDRESSES: You may submit comments, identified by docket ID PHMSA–2011–0337, by any of the following methods:

E-Gov Web: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

Mail: Docket Management System: U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: DOT Docket Management System: West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue SE., between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

Instructions: Identify the docket ID, PHMSA–2011–0337, at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: All comments received will be posted without edits to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477–78) or you may visit *http://docketsinfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. Alternatively, you may review the documents in person at the street address listed above.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Mike Israni, (202) 366–4571, or by email at *mike.israni@dot.gov.*

Regulatory Information: Cheryl Whetsel by phone at (202) 366–4431 or by email at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113; March 7, 1996) directs Federal agencies to use voluntary consensus standards and design specifications developed by voluntary consensus standard bodies instead of government-developed voluntary technical standards, when applicable. The Office of Management and Budget (OMB) Circular A–119: ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'' sets the policy for Federal use and development of voluntary consensus standards. As defined in OMB Circular A–119, voluntary consensus standards are technical standards developed or adopted by organizations, both domestic and international. These organizations use agreed upon procedures to update and revise their published standards every three to five years to reflect modern technology and best technical practices.

The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register** and Code of Federal Regulations (CFR). This material, like any other properly issued rule, has the force and effect of law. Congress authorized incorporated by reference to reduce the volume of material published in the **Federal Register** and CFR. (See 5 U.S.C. 552(a) and 1 CFR Part 51.). Congress granted authority to the Director of the Federal Register to determine whether a proposed incorporation by reference serves the public interest.

There are 64 standards and specifications incorporated by reference in 49 CFR part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 49 CFR part 193, Liquefied Natural Gas Facilities: Federal Safety Standards; and 49 CFR part 195, Transportation of Hazardous Liquids by Pipeline.

PHMSA regularly reviews updates to currently referenced consensus standards as well as new editions to ensure that the content remains consistent with the intent of the pipeline safety regulations. PHMSA employees participate in more than 25 national voluntary consensus standards-setting organizations that address pipeline design, construction, maintenance, inspection, and repair. As representatives of the agency, these subject matter experts actively participate in discussions and technical debates, register opinions and vote in accordance with the procedures of the standards body at each stage of the standards development process (unless prohibited from doing so by law). However, it is important to note that agency participation does not necessarily constitute agency agreement with, or endorsement of, decisions reached by such organizations. PHMSA has the ultimate responsibility to ensure public safety and will only adopt those portions of standards into the Federal regulations that meet the agency's directive(s) to ensure the best interests of public safety are served. Agency participation in the development of voluntary consensus standards is important to eliminate the necessity for development or maintenance of separate government-unique standards; to further national goals and objectives such as increased use of environmentally sound and energy efficient materials, products, systems, services, or practices; and to improve public safety. New or updated standards often further innovation and increase the use of new technologies, materials, and management practices that improve the safety and operations of pipelines and pipeline facilities.

Section 24 of the ''Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011'' (Pub. L. 112–90, January 3, 2012), amended 49 U.S.C. 60102 by adding a new requirement on documents incorporated by reference after January 3, 2013. The law states, ''Beginning 1 year after the date of enactment of this subsection, the Secretary may not issue guidance or a regulation pursuant to this chapter that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.'' To meet this requirement, PHMSA negotiated agreements with the majority of the standards-setting organizations with documents incorporated by reference in the pipeline safety regulations. These organizations are:

—American Petroleum Institute (API).
—American Gas Association (AGA).
—American Society for Testing and Materials (ASTM).
—Gas Technology Institute (GTI).
—Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS).
—NACE International (NACE).
—National Fire Protection Association (NFPA).

Each of the organizations' mailing addresses and Web sites are listed in Parts 192, 193, and 195. In this NPRM, PHMSA has identified two new standards (one to be partially incorporated) and 21 updated editions of currently referenced standards to incorporate in Parts 192, 193, and 195. PHMSA also is proposing miscellaneous edits to the pipeline safety regulations, including removing § 199.111 because the requirements in that section are adequately covered by 49 CFR part 40.

Previous updates to incorporate industry standards by reference were published on August 11, 2010, (75 FR 48593), February 1, 2007, (72 FR 4657), June 9, 2006, (71 FR 33402), June 14, 2004, (69 FR 32886), February 17, 1998, (63 FR 7721), June 6, 1996, (61 FR 2877) and May 24, 1996, (61 FR 26121).

II. New Standards To Be Incorporated by Reference (Fully or Partially)

API Recommended Practice 5LT

PHMSA is proposing to adopt API Recommended Practice 5LT, ''Recommended Practice for Truck

Transportation of Line Pipe,'' (First edition, March 1, 2012) to address the National Transportation Safety Board's (NTSB) Recommendation P–04–03.

During its investigation of a July 2002 pipeline incident, the NTSB determined that the probable cause of the pipeline rupture was inadequate loading of the pipe for transportation that allowed a fatigue crack to initiate along the seam of the longitudinal weld during transit. NTSB recommended that PHMSA revise its regulations to require that the transportation of all pipe be subject to API standards. In a final rule published on August 11, 2010, titled, ''Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Edits,'' (Docket No. PHMSA–2008–0301, (75 FR 48593)), PHMSA incorporated by reference the, ''Recommended Practice for Railroad Transportation of Line Pipe,'' API RP 5L1, as rail transportation has generally been considered to be the most likely source of transit fatigue cracking. At the same time, PHMSA and the API formed a working group to evaluate the need for a truck transportation standard to prevent damage to pipe as recommended by NTSB. A standard was drafted and published in March 2012. Thus, PHMSA is proposing to incorporate by reference this new standard as follows:

—API ''Recommended Practice for Truck Transportation of Line Pipe'' (First edition) (March 1, 2012). (API RP 5LT).

—Referenced in § 192.65 and § 195.207.

ASTM D 2513–09a

PHMSA is proposing to incorporate by reference ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings,'' for PE materials, except for section 4.2 which addresses rework material. Section 4.2 states: ''Clean rework material of the same commercial designation, generated from the manufacturer's own pipe and fitting production shall not be used unless the pipe and fitting produced meets all the requirements of this specification. The use of these rework materials shall be governed by the requirements of section 4.3 and PPI Technical Note (TN)–30/2006.'' In PE pipe, ''rework materials shall be limited to a maximum of 30% by weight.''

The main steps of PE pipe manufacturing include an extrusion process where raw material (usually supplied in the form of pellets) is heated, melted, mixed and conveyed into a die and shaped into a pipe. Rework (also known as regrind) is a process by which plastic pipe that does not fall within acceptable specifications following the extrusion process can be reused if it meets certain requirements. Such requirements include reducing the size of the material through appropriate stages (i.e., regrinding the material) and avoiding introducing contamination. The end goal is for the material to have an equivalent cleanliness and size to the virgin material prior to going back through the extrusion process. Additional requirements are discussed in PPI TN–30/2006, ''Requirements for the Use of Rework Materials in Manufacturing of Polyethylene Gas Pipe'' available publicly at *http://www.plasticpipe.org/pdf/tn-30_rework_materials_in_pe_gas_pipe.pdf.* Even after taking into account the requirements in PPI TN–30/2006, PHMSA is concerned that there is too much potential for contamination to be introduced during the rework process. In the interest of pipeline safety and to ensure the integrity of this type of pipe, it seems prudent not to allow any reworked pipe, let alone up to a maximum of 30% by weight as specified in ASTM D2513–09a. PHMSA sees no reason for allowing the use of reworked material and cannot be certain its use would provide an equivalent or better level of safety.

For additional technical basis, PHMSA is inviting comments on prohibiting rework materials, as well as potential alternatives for limiting the use of rework materials. For example, one alternative might be to establish limits on the use of rework materials by pipe diameter (e.g., no rework material is allowed for pipe two inches Iron Pipe Size (IPS) and below in diameter and the requirements in ASTM D2513–09a, section 4.2 would be acceptable for pipe larger than two inches IPS in diameter). Another alternative might be to allow rework material as required by ASTM D2513–09a, section 4.2, in which case ASTM D2513–09a could possibly be incorporated in whole.

PHMSA is not aware of a specific root cause or technical analyses that would indicate rework (including up to 30%) as a contributing factor in incidents. At the same time, PHMSA is not aware of specific information that discounts rework as a risk. PHMSA is, however, aware that some operators do not allow any rework material. PHMSA is also aware that there is a work item through the ASTM F17.60 committee considering an amendment to ASTM D–2513 that would prohibit rework completely.

With respect to a limitation by diameter, once again, PHMSA does not have firm evidence that two inches is a specific and critical threshold for rework. Smaller diameter pipe (two-inch IPS and less), however, has proven to be more susceptible to past material issues due to typically having a thinner wall. Also, this smaller diameter pipe is often in closer proximity to the customer as it is used as service line piping leading up to end users of natural gas, increasing the potential impact if an incident were to occur.

It should be noted that ASTM D2513–09a is exclusively a PE standard, while the 1999 version addresses other non-metallic piping materials. PHMSA proposes for other non-PE plastic materials to continue to reference the ASTM D2513–87 (for § 192.63 only, marking of materials) and ASTM D2513–99 (except section 4.2 pertaining to rework material) for §§ 192.59 (d); 192.191(b); 192.281(b)(2); 192.283(a)(1)(i); and Item 1, Appendix B to Part 192).

PHMSA believes the incorporation of ASTM D 2513–09a, along with retention of ASTM D2513–87 and 99 is consistent with the petitions for rulemaking received from the the Gas Piping Technology Committee (GPTC) and the American Gas Association. GPTC petitioned PHMSA to adopt ASTM D2513–09a because of significant changes made to ASTM D2513 in the past 10 years. These changes include a new requirement for outdoor storage of PE pipe—three years for yellow pipe and 10 years for black pipe; new high performance PE pipe material designation codes, with increased long-term performance requirements; and more stringent requirements for use of rework material in PE gas pipe. AGA's September 9, 2009 petition requested that PHMSA incorporate by reference the part of ASTM D2513 (2009) addressing color and UV stablizer (Section A1.3.5). PHMSA agrees that the new standard will improve safety, long-term performance, and quality of PE gas distribution pipe.

Therefore, PHMSA is proposing to IBR ASTM D 2513–09a as referenced below and will continue to reference the 1987 and 1999 editions discussed above.

—ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings,'' (December 1, 2009), (except section 4.2 pertaining to rework material) (ASTM D2513).

—Referenced in §§ 192.59 (d); 192.63 (a); 192.123 (e); 192.191 (b); 192.281 (b); 192.283 (a); Item 1, Appendix B to Part 192.

III. Standards With Updated Editions Not To Be Incorporated by Reference

PHMSA is not proposing to incorporate the updated editions of the following documents at this time:

American Petroleum Institute

PHMSA is not proposing to incorporate by reference the second edition of the API Recommended Practice (RP) 1162. PHMSA and the state pipeline authorities conducted public awareness effectiveness inspections to assess compliance with Federal regulations that incorporate the first edition of API RP 1162. These were completed in December 2012. Additionally, PHMSA held a public awareness workshop in June 2013 to discuss ways to improve public awareness programs and whether or not to incorporate the second edition of this standard. PHMSA is analyzing the results of the inspections and workshop and will make a determination whether or not to incorporate the second edition at a later date. Therefore, at this time, PHMSA will continue to incorporate the first edition of API RP 1162. The reference for API RP 1162 will remain as follows:

—API Recommended Practice 1162, ''Public Awareness Programs for Pipeline Operators,'' (1st edition, December 2003) (API RP 1162).
—Referenced in § 192.616 (a), (b), (c).

API Standard 653

PHMSA is not proposing to incorporate by reference API Standard 653, (4th edition) and Addendum (2010) at this time. PHMSA will continue to review this document for consideration in a future update.

Rather, PHMSA is proposing to continue to incorporate the third edition of API Standard 653, ''Tank Inspection, Repair, Alteration, and Reconstruction'' (3rd edition, 2001), except section 6.4.3. PHMSA is proposing to eliminate the incorporation of section 6.4.3 as it applies to risk-based inspection (RBI) intervals (49 CFR 195.432). PHMSA believes API needs to eliminate the criteria stated in the risk-based option for the inspection interval of a breakout tank listed in API Standard 653. An alternate inspection interval based on a risk-based algorithm generally uses a standardized set of factors. These factors are weighted to calculate the risk of failure with a longer inspection interval. Section 6.4.3 of API Standard 653 (3rd edition) provides no standardized methodology for calculating or determining an alternate inspection interval nor does it provide for a minimum bottom plate thickness in the tank. This thickness is determined as part of the RBI analysis and could conceivably be set at a thickness where leakage may be eminent. Without proper guidance for using an alternate RBI, PHMSA believes that this would not be consistent with safety. Therefore, PHMSA will no longer incorporate section 6.4.3 of API Standard 653 (3rd edition, 2001). The reference to API Standard 653 in the pipeline safety regulations will be changed as follows:

—API Standard 653–2001, ''Tank Inspection, Repair, Alteration, and Reconstruction'' (3rd edition, 2001), (except section 6.4.3) (API Std 653).
—Referenced in §§ 195.205 (b); 195.307 (d) and 195.432 (b).

IV. New Editions to Currently Referenced Standards To Be Incorporated by Reference

PHMSA proposes to IBR the following updated editions of currently-referenced standards in Parts 192, 193 and 195.

American Petroleum Institute

—API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe,'' (7th Edition, September 2009).

Replaces IBR: API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe,'' (6th Edition, 2002);

Referenced in 49 CFR 192.65; 195.207.

—API Recommended Practice 5LW, ''Transportation of Line Pipe on Barges and Marine Vessels,'' (3rd edition, September 2009).

Replaces IBR: API Recommended Practice 5LW, ''Transportation of Line Pipe on Barges and Marine Vessels,'' (2nd edition, December 1996, effective March 1, 1997);

Referenced in 49 CFR 192.65; 195.207.

—ANSI/API Specification 5L/ISO 3183, ''Specification for Line Pipe,'' ANSI/API Specification 5L/ISO 3183 ''Specification for Line Pipe'' (45th edition, December 1, 2012).

Replaces IBR: ANSI/API Specification 5L/ISO 3183, ''Specification for Line Pipe,'' (44th edition, 2007), includes errata (January 2009) and addendum (February 2009);

Referenced in 192.55; 192.112; 192.113; and Item 1, Appendix B to Part 192; 195.106.

—ANSI/API Specification 6D, ''Specification for Pipeline Valves,'' (23rd edition, April 1, 2008, effective October 1, 2008), includes Errata 1, 2, 3, 4, 5, and 6 (2011) and Addenda 1 and 2 (2011).

Replaces IBR: ANSI/API Specification 6D, ''Specification for Pipeline Valves,'' (23rd edition (April 2008, effective October 1, 2008)) and errata 3 (includes 1 and 2, February 2009);

Referenced in 49 CFR 192.145; 195.116.

—API Specification 12F, ''Specification for Shop Welded Tanks for Storage of Production Liquids,'' (12th edition, October 2008, including errata 2008).

Replaces IBR: API Specification 12F, ''Specification for Shop Welded Tanks for Storage of Production Liquids,'' (11th edition, November 1, 1994, reaffirmed 2000, errata, February 2007);

Referenced in 49 CFR 195.132; 195.205; 195.264; 195.307; 195.565; 195.579.

—API Standard 620, ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks'' (11th edition, February 2008, addendum 1, March 2009), and addendum 2 (2010).

Replaces IBR: API Standard 620, ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks,'' (11th edition, February 2008, addendum 1 March 2009);

Referenced in 49 CFR 193.2101; 193.2321; 195.132; 195.205; 195.264; 195.307; 195.565; 195.620.

—API Standard 650, ''Welded Steel Tanks for Oil Storage'' (11th edition, June 2007), includes addendum 1 (November 2008), addendum 2 (November 2009), addendum 3 (August 2011), and errata (February 2012).

Replaces IBR: API Standard 650, ''Welded Steel Tanks for Oil Storage,'' (11th edition, June 2007), addendum 1, November 2008, and addendum 2 (2009);

Referenced in 49 CFR 195.132; 195.205; 195.264; 195.307; 195.565; 195.579.

—API Standard 2000, ''Venting Atmospheric and Low-Pressure Storage Tanks Non-Refrigerated and Refrigerated,'' (6th edition, November 2009).

Replaces IBR: API Standard 2000, ''Venting Atmospheric and Low-Pressure Storage Tanks Non-Refrigerated and Refrigerated,'' (5th edition, April 1998, errata, November 1999);

Referenced in 49 CFR 195.264.

American Society for Testing and Materials (ASTM)

—ASTM A53/A53M–10, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless,'' (October 2, 2010).

Replaces IBR: ASTM A53/A53M–07, ''Standard Specification for Pipe, Steel,

Black and Hot-Dipped, Zinc-Coated Welded and Seamless,'' (September 1, 2007);

Referenced in 49 CFR 192.113; Item 1, Appendix B to Part 192; and 195.106.

—ASTM A106/A106M–10, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service,'' (July 15, 2008).

Replaces IBR: ASTM A106/A106M–08, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service,'' (July 15, 2008);

Referenced in 49 CFR 192.113; Item 1, Appendix B to Part 192; and 195.106.

—ASTM A333/A333M–11 (2011), ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service,'' (April 1, 2011).

Replaces IBR: ASTM A333/A 333M–05, ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service;'' (March 1, 2005);

Referenced in 49 CFR 192.113; Item 1, Appendix B to Part 192; and 195.106.

—ASTM A372/A372M–10, (reapproved 2005), ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels,'' (October 1, 2010).

Replaces IBR: ASTM A372/A372M–03 (reapproved), ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels,'' (March 1, 2008);

Referenced in 49 CFR 192.177.

—ASTM A671/A671M–10, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures,'' (April 1, 2010).

Replaces IBR: ASTM A671–06 (2006) ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures,'' (May 1, 2006);

Referenced in 49 CFR 192.113; Item 1, Appendix B to Part 192; and 195.106.

—ASTM A672–09, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures,'' (October 1, 2009).

Replaces IBR: ASTM A672–08, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures,'' (May 1, 2008);

Referenced in 49 CFR 192.113; Item 1, Appendix B to Part 192; 195.106.

—ASTM A691–09, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures,'' (October 1, 2009).

Replaces IBR: ASTM A691–98 (reapproved 2007), ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures,'' (November 1, 2007);

Referenced in 49 CFR 192.113; Item 1, Appendix B to Part 192; and 195.106.

Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS)

—MSS SP–44–2010, Standard Practice, ''Steel Pipeline Flanges,'' (2010 edition).

Replaces IBR: MSS SP–44–2006, Standard Practice, ''Steel Pipeline Flanges,'' (2006 edition);

Referenced in 49 CFR 192.147.

—MSS SP–75–2008, ''Specification for High Test Wrought Butt Welding Fittings,'' (2009 edition).

Replaces IBR: MSS SP–75–2004, ''Specification for High Test Wrought Butt Welding Fittings,'' (2004 edition);

Referenced in 49 CFR 195.118.

NACE International (NACE)

—NACE Standard SP0502–2010, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology,'' (June 24, 2010).

Replaces IBR: NACE SP0502–2008, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology,'' (reaffirmed March 20, 2008);

Referenced in 49 CFR 192.923; 192.925; 192.931; 192.935; 192.939; 195.588.

National Fire Protection Association (NFPA)

—NFPA–30 (Fire) (2012), ''Flammable and Combustible Liquids Code,'' includes Errata 1, Errata 2 (2012 edition, June 20, 2011).

Replaces IBR: NFPA–30, ''Flammable and Combustible Liquids Code,'' (2008 edition, approved August 15, 2007);

Referenced in 49 CFR 192.735; 195.264.

—NFPA–70 (2011), ''National Electrical Code,'' includes Errata 1, Errata 2 (2011 edition, approved September 24, 2010).

Replaces IBR: NFPA 70 (2008), ''National Electrical Code,'' (NEC 2008) (Approved August 15, 2007);

Referenced in 49 CFR 192.163; 192.189.

V. Public Availability of Standards

All incorporated by reference documents are available for visual inspection at the following locations:

—The U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety, 1200 New Jersey Avenue SE., Washington, DC, 20590–0001or any of PHMSA's five regional offices (addresses available at: *http://www.phmsa.dot.gov/pipeline/about/org*);

—The National Archives and Records Administration (NARA), Office of the Federal Register (NF), 8601 Adelphi Road, College Park, MD 20740–6001. For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html;* and

—The respective standards developing organizations (SDO) listed in Parts 192, 193, and 195.

All the standards addressed in this NPRM are also available for free on the internet. Direct links to those SDO Web sites are be listed on the PHMSA Web site at: *http://www.phmsa.dot.gov*.

VI. Clarifications, Corrections and Edits

In this NPRM, PHMSA is also proposing non-substantive editorial amendments and clarifications to the pipeline safety regulations.

Section 192.283(a)(1)(i)

In § 192.283 (a)(1)(i), the language ''or paragraph 8.9 (Sustained Static Pressure Test)'' has been deleted as PHMSA believes the reference is an error. Paragraph 8.9 does not exist in ASTM D2513–99 nor does it appear in several other versions of this referenced standard. Staff researched several editions of ASTM D2513, the pipeline safety regulations, and **Federal Register** notices to determine if the paragraph may have been associated with a different standard but found no reference to paragraph 8.9. Furthermore, PHMSA is proposing to delete ''-99'' after ''ASTM D2513'' as this section would pertain to both PE and non-PE plastic. The resulting language would read ''In the case of thermoplastic pipe, paragraph 6.6 (sustained pressure test) or paragraph 6.7 (minimum hydrostatic burst test) of ASTM D2513 (incorporated by reference, *see* § 192.7).''

Section195.452 (l)

Section 195.452(l) states that an operator must maintain certain records for review during an integrity management (IM) inspection. PHMSA is proposing to clarify this section by specifying that records for IM compliance must be maintained for the useful life of the pipe.

Section 199.111

PHMSA is removing § 199.111 because the requirements conflict with 49 CFR Part 40 and create compliance

confusion. There is currently a conflict between § 199.111 and Part 40. In Part 40, it states that it is the medical review officer's (MRO) responsibility to select the laboratory to which the split sample should be sent. However, § 199.111 allows the specimen donor (i.e., the covered employee), and not the MRO, to select the testing laboratory to which his/her split specimen should be sent for corroborating evaluation.

Moreover, Part 40 requirements preclude testing the split specimen through the testing laboratory that evaluated the first specimen (i.e., Sample A). Conversely, § 199.111 allows utilizing the testing laboratory that tested the first specimen. This is not only contrary to Part 40 requirements, but also creates a compliance controversy for both the MRO and the operator as to which regulation to comply with.

PHMSA must enforce both Part 199 and Part 40 requirements and therefore PHMSA proposes to eliminate § 199.111 in its entirety.

Editorial Amendments

PHMSA is proposing to change the ''Centralized IBR sections'' from the current table format to a listing. In addition, PHMSA is adding standard abbreviations for each of the titles incorporated by reference. The purpose of this change is to conform with guidance provided by the **Federal Register** for ''Centralized IBR'' sections, to apply a consistent use of terms throughout the regulations (e.g., to differentiate between a standard (Std), a specification (Spec), recommended practice (RP), or publication (Pub)), and to add the dates of certain editions where more than one is referenced. This will ensure that operators apply the correct versions of documents incorporated by reference and make electronic database searches, (e.g., in the Electronic Code of Regulations (e-cfr) *http://www.ecfr.gov/cgi-bin/text-idx?tpl=%2Findex.tpl*) easier and more accurate. These proposed editorial changes include:

—Adding abbreviated titles to the list of standards to be incorporated in §§ 192.7, 193.2013, and 195.3.
—Revising current titles to abbreviated titles.
—Correcting the reference to the Gas Technology Institute (GTI) research document (formerly the Gas Research Institute (GRI)) document number from GRI–89/0242 to GTI–04/0049.
—Correcting the reference from the first edition to the third edition of API Standard 653, ''Tank Inspection, Repair, Alteration, and Reconstruction.''
—Removing an incorrect reference to ASME Boiler & Pressure Code, Section VII, Division 2 in § 193.2321.
—Inserting the year of certain standards where more than one edition may be applied.
—Inserting the notation ''Incorporated by Reference'' in the regulation text, if not included previously.

VII. Regulatory Analyses and Notices

A. Summary/Legal Authority for This Rulemaking

This NPRM is published under the authority of the Federal pipeline safety law (49 U.S.C. 60101 et seq.). Section 60102 authorizes the Secretary of Transportation to issue regulations governing design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Further, Section 60102(l) of the Federal pipeline safety law states that the Secretary shall, to the extent appropriate and practicable, update incorporated industry standards adopted as a part of the Federal pipeline safety regulations. If adopted as proposed, this NPRM would IBR two new editions (one partially incorporated) and 21 updated standards of those currently referenced standards (wholly or in part). In addition, if adopted as proposed, this NPRM would make miscellaneous and editorial changes to the pipeline safety regulations.

B. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This NPRM is not considered a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not subject to review by the Office of Management and Budget. This NPRM is also considered non-significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

In accordance with the National Technology and Advancement Act of 1995 (''the Act'') and OMB Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' PHMSA periodically reviews and updates the standards incorporated by reference to include new editions. In this NPRM, if adopted as proposed, we would incorporate two new standards API RP 5LT; partially incorporate ASTM D2513–09a (except section 4.2 pertaining to rework materials); and update 21 of those currently referenced standards and specifications in 49 CFR Parts 192, 193, and 195. The majority of these standards are created by national voluntary consensus standards developing organizations that address pipeline design, construction, maintenance, inspection, and repair. Others are developed by organizations using a consensus setting process to develop guidance in the form of standards, publications, and recommended practices. The government decreases the burden on the regulated industry by adopting consensus standards that provide the most current industry practices and guidance developed together with industry experts. This practice is consistent with the National Technology and Advancement Act of 1995 and the OMB policy directives. This practice also avoids the possibility of burdening industry with potentially conflicting regulations and industry practices.

According to the annual reports submitted by pipeline operators to PHMSA, there are over 2,370 entities operating hazardous liquid, natural gas transmission, gathering, and distribution systems, and liquefied natural gas facilities as of December 31, 2011. The incorporation of these standards is not expected to have any additional cost of compliance to these entities, but is expected to encourage safer long-term growth for the pipeline industry by promoting efficiency and economic competition through harmonization of standards.

PHMSA anticipates the proposals contained in this rule will enhance safety and reduce the compliance burden on the regulated industry. Industry standards developed and adopted by consensus generally are accepted and followed by the pipeline industry, thus assuring that the industry is not forced to comply with a number of different standards to accomplish the same safety goal.

In addition to incorporating new and updating existing voluntary consensus standards, PHMSA is taking this opportunity to make non-substantive edits and to clarify regulatory language in certain provisions. Since these proposed editorial changes are regarded relatively minor, the NPRM would not require pipeline operators to undertake any significant new pipeline safety initiatives and would not have any cost implications, but would increase the clarity of the pipeline safety regulations, promoting improved compliance and safety of the nation's pipeline systems.

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were

established in Executive Order 12866 Regulatory Planning and Review of September 30, 1993. In addition, Executive Order 13563 specifically requires agencies to: (1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; and (5) consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

In this NPRM, PHMSA is involving the public in the regulatory process in a variety of ways. Specifically, PHMSA is addressing issues and errors that were identified and tagged for future rulemaking consideration in letters received by the regulated community and through meetings and other correspondence with stakeholders. PHMSA is asking for public comments based on the proposals in this NPRM. Upon receipt of public comment and confirmation of the standards availability to the public free of charge on the Internet, PHMSA will discuss with the members of its two advisory committees and then address all substantive comments in the next rulemaking action under this docket.

The incorporation of the two new editions (one partially) and updates to 21 other standards promote simplification and harmonization through adoption of consensus standards developed by pipeline experts nationwide and internationally. For example, PHMSA is proposing to IBR a new standard, API Recommended Practice 5LT, ''Recommended Practice for Truck Transportation of Line Pipe,'' (First edition, March 1, 2012) to reduce the risk of a pipeline rupture from pipe that is inadequately loaded for transportation by truck. This standard will decrease the probability of fatigue cracking along the seam of the longitudinal weld during transit and thereby improving safety. This action also responds to an NTSB recommendation.

In § 192.283, PHMSA is proposing to IBR ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fitting,'' for PE materials (except section 4.2) to ensure correct marking of (PE) materials. PHMSA is also seeking public comment and additional information on the issue of reworked material (section 4.2) prior to incorporating that section of the new standard.

These standards, if adopted as proposed, are expected to produce a safety benefit derived from new requirements to safely transport pipe by truck and by improved marking specifications of PE pipe.

There are minimal additional costs. The clarity will result in net benefits.

C. Executive Order 13132

This NPRM was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This NPRM would not have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. This NPRM would not impose substantial direct compliance costs on State and local governments nor will it preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

PHMSA has analyzed this NPRM according to Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this NPRM would not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 would not apply.

E. Regulatory Flexibility Act, Executive Order 13272 and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), requires an agency to review regulations to assess their impact on small entities unless the agency determines the rule is not expected to have a significant impact on a substantial number of small entities. This NPRM would ensure that pipeline operators are using the new or updated editions of technical standards incorporated by reference. In addition, this NPRM would improve the clarity of several requirements. There are over 2,300 operating entities submitting annual reports describing the physical and certain operating characteristics of hazardous liquid, natural gas transmission, gathering, and distribution systems, and liquefied natural gas facilities as of December 31, 2010. According to PHMSA data, Dun and Bradstreet identified about 600 active operating entities as a small business (i.e., about 25% of the active operating entities may be classified as a small business).

Codes and standards developed by technical committees are, for the most part, comprised of experts who represent the various facets of a given industry, such as manufacturers, installers, insurers, inspectors, end users, distributors, and regulatory agencies. Participants represent both large and small businesses and others. An example of the make-up of a typical standards committee may include representatives from large and small operating companies (engineers, researchers, or risk management officers), government (Federal/state), risk management consultants, insurance administrators; academics and individuals. Meetings are open to the public. The Committees involved in developing, revising and approving consensus standards by organizations such as the API or AGA include technical experts, operating companies, vendors, consultants, academia and regulators. An example of a small business may include technical experts from a publicly owned natural gas local distribution company.

The impact of this NPRM is not expected to be significant and the proposed changes are not expected to have any increase in compliance cost regardless of the size of the firm. The proposed changes are intended to update current editions of industry standards to allow for the use of newer or updated safety procedures to promote uniformity among industry practices. Changes in standards employing performance-based approaches have resulted in less costly changes to an organization's manufacturing processes.

Therefore, PHMSA concludes this NPRM would not have a significant economic impact on any small entity.

Consideration of alternative proposals for small businesses—The Regulatory Flexibility Act directs agencies to establish expectations and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. In the case of hazardous liquid, natural gas and other types of materials transported by pipeline, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

The impact of this NPRM will be minimal. The proposed changes are generally intended to provide industry guidance through adoption of newer editions of consensus standards and recommended practices.

Based on the facts available about the anticipated impact of this rulemaking, I certify, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this NPRM will not have a significant economic impact on a substantial number of small entities.

F. Paperwork Reduction Act

This NPRM does not impose any new information collection requirements.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act of 1995

This NPRM would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million (adjusted for inflation currently estimated to be $132 million) or more in any one year to either state, local, or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of the NPRM.

I. Privacy Act Statement

Anyone may search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://docketsinfo.dot.gov/.*

J. Environmental Assessment

The National Environmental Policy Act of 1969, 42 U.S.C. 4321–4375, requires Federal agencies to analyze proposed actions to determine whether the action will have a significant impact on the human environment. The Council on Environmental Quality (CEQ) regulations require Federal agencies to conduct an environmental review considering: (1) The need for the proposed action; (2) alternatives to the proposed action; (3) probable environmental impacts of the proposed action and alternatives; and (4) the agencies and persons consulted during the consideration process (40 CFR 1508.9(b)). In this NPRM, PHMSA proposes to IBR two new standards (one partially) and to incorporate 21 updated standards of those currently-referenced. If adopted as proposed, this NPRM would also make miscellaneous and editorial changes to the pipeline safety regulations.

Description of Action: The National Technology Transfer and Advancement Act of 1995, directs Federal Agencies to use voluntary consensus standards and design specifications developed by voluntary consensus standard bodies instead of government-developed voluntary technical standards, when applicable. There are currently 64 standards incorporated by reference in parts 192, 193, and 195 of the pipeline safety regulations.

PHMSA engineers and subject matter experts participate on approximately 25 standards development committees to keep current on committee actions. PHMSA will only propose to adopt standards into the Federal regulations that meet the agency's directive(s) to ensure the best interests of public and environmental safety are served.

Purpose and Need: Many of the industry standards currently incorporated by reference in the pipeline safety regulations have been revised and updated to incorporate new technology and methodology. The NPRM would consider allowing operators to use this new technology by incorporating new editions of the standards into the pipeline safety regulations.

PHMSA technical experts continually review the actions of the pipeline standards developing committees and study industry safety practices to ensure their endorsement of any new editions or revised standards incorporated into the Federal safety regulations will improve public safety, as well as, provide protections for the environment. If PHMSA does not amend the Federal safety standards to keep up with industry practices, it could potentially have an adverse effect on the transportation of energy resources.

Alternatives Considered: In developing the NPRM, we considered two alternatives:

Alternative (1): Take no action and continue to incorporate the existing standards currently referenced in the pipeline safety regulations.

Because our goal is to facilitate pipeline safety, we rejected the alternative to take no action.

Alternative (2): Go forward with the proposed amendments and incorporate updated editions of voluntary consensus standards to allow pipeline operators to use current technologies. This is the selected alternative.

Our goal is to incorporate by reference into the pipeline safety regulations all or parts of updated editions of voluntary consensus standards to allow pipeline operators to use current technology, new materials, and other industry and management practices. In addition, PHMSA's goal is to update and clarify certain provisions in the regulations. These proposed amendments would make the regulatory provisions more consistent with current technology and would therefore promote the safe transportation of hazardous liquids, natural and other gases, and liquefied natural gas by pipeline.

If these amendments are adopted as proposed, the pipeline safety regulations would not require pipeline operators to undertake any significant new pipeline safety initiatives. In fact, by updating several of the currently referenced standards, pipeline operators may find it easier to comply with certain provisions. For example, the GPTC, consisting of approximately 100 members with technical expertise in natural gas distribution, transmission, and gathering systems, petitioned PHMSA to adopt the 2009a version of ASTM D2513, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings.'' ASTM D2513–09a covers polyethylene (PE), the most widely used piping material for gas distribution. This newer edition updates outdoor storage requirements for PE pipe and incorporates the new high performance PE pipe materials designation codes, with increased long-term performance requirements. PHMSA is proposing to partially incorporate this standard.

Environmental Consequences: The Nation's pipelines are located throughout the United States, onshore and offshore, and traverse a variety of environments—from highly populated urban sites to remote, unpopulated rural areas. The Federal pipeline regulatory system is a risk management system that is prevention oriented and focused on identifying a safety hazard and reducing the probability and quantity of a natural gas or hazardous liquid material release. Pipeline operators are required to develop and implement IM programs. The purpose of these programs is to enhance safety by identifying and reducing pipeline integrity risks.

Pipelines subject to this NPRM transport hazardous liquids and natural gas and therefore a spill or leak of the product could affect the physical environment as well as the health and safety of the public. The release of a hazardous liquid and natural gas can

cause the loss of cultural and historical resources (e.g., properties listed on the National Register of Historic Places), biological and ecological resources (e.g., coastal zones, wetlands, plant and animal species and their habitat, forests, grasslands, offshore marine ecosystems), special ecological resources (e.g., threatened and endangered plant and animal species and their habitat, national and state parklands, biological reserves, wild and scenic rivers), and the contamination of air, water resources (e.g., oceans, streams, lakes) and soil that exist directly adjacent to and within the vicinity of pipelines. Incidents on pipelines can result in fires and explosions, resulting in damage to the local environment. Depending on the size of a spill or gas leak, and the nature of the failure zone, the potential environmental impacts could vary from property damage, environmental damage, injuries or, on rare occasions, fatalities.

Compliance with the pipeline safety regulations substantially reduces the possibility of an accidental release of materials. Updating industry standards incorporated in the pipeline safety regulations adopts the advantages of new technology and enhances safety and environmental protection.

Conclusion—Degree of Environmental Impact: PHMSA proposes to incorporate consensus standards that will allow the pipeline industry to use improved technologies, new materials, performance-based approaches, manufacturing processes or other practices to enhance public health, safety and welfare. The goal is to ensure hazardous liquids, natural and other gases, and liquefied natural gas transported by pipeline will arrive safely to its destination. Therefore, PHMSA has preliminarily determined that the selected alternative would not have a significant impact on the human environment. PHMSA welcomes comments on this initial determination.

K. Executive Order 13211

Transporting gas affects the nation's available energy supply. However, this NPRM would not be a significant energy action under Executive Order 13211. It also would not be a significant regulatory action under Executive Order 12866 and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, the Administrator of the Office of Information and Regulatory Affairs would not be likely to identify this NPRM has a significant energy action.

List of Subjects

49 CFR Part 192

Incorporation by Reference, Natural Gas, Pipeline safety.

49 CFR Part 193

Incorporation by Reference, Liquefied Natural gas, Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon Dioxide, Incorporation by Reference, Petroleum Pipeline safety.

49 CFR Part 199

Drug and Alcohol Testing.

In consideration of the foregoing, PHMSA proposes to amend 49 CFR Parts 192, 193, 195, and 199 as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, 60118 and 60137; and 49 CFR 1.53.

■ 2. Section 192.7 is revised to read as follows:

§ 192.7 What documents are incorporated by reference partly or wholly in this part?

(a) This part prescribes standards, or portions thereof, incorporated by reference. The material incorporated by reference is treated as if it were published in full in the **Federal Register** (5 U.S.C. 552(a)) and has the full force of law. The materials listed in this section have been approved for IBR by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material is incorporated as it existed on the date of the approval by the **Federal Register** and any changes thereafter will also be published in the **Federal Register.**

(1) *Availability of standards incorporated by reference.* All of the materials incorporated by reference are available for inspection from several sources, including the following:

(i) The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC, 20590–0001. For information contact 1–202–366–202–4046 or go to: *http://www.phmsa.dot.gov/pipeline/regs.*

(ii) The National Archives and Records Administration (NARA), Office of the Federal Register (OFR), 800 North Capitol Street NW., Suite 700, Washington, DC 20001. For information on the availability of this material and how to make an appointment, contact NARA, by telephone 202–741–6030 or go to: *http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html.*

(iii) The respective standards-developing organizations listed in this part.

(2) For information concerning standards available free of charge for visual inspection, please see the links on PHMSA's Web site at: *http://www.phmsa.dot.gov/pipeline/regs.*

(3) *Standards incorporated by reference.* The full titles of documents incorporated by reference, in whole or in part, are provided in this section. The numbers in parentheses indicate applicable editions. For each incorporated document, citations of all affected sections are provided. Earlier editions of documents listed in this section or editions of documents listed in previous editions of 49 CFR part 192 may be used for materials and components designed, manufactured, or installed in accordance with these earlier documents at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR part 192 for a listing of the earlier listed editions or documents. The full titles of publications incorporated by reference wholly or partially in this part are as follows:

(b) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, phone: 202–289–2250, *http://api.org/.*

(1) API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe'' (7th Edition, September 2009), (API RP 5L1), IBR approved for § 192.65(a).

(2) API Recommended Practice 5LT, ''Recommended Practice for Truck Transportation of Line Pipe'' (March 12, 2012), (API RP 5LT IBR approved for § 192.65(c).).

(3) API Recommended Practice 5LW, ''Transportation of Line Pipe on Barges and Marine Vessels'' (3rd edition, September 2009) (API RP 5LW). IBR approved for § 192.65(b).

(4) API Recommended Practice 80, ''Guidelines for the Definition of Onshore Gas Gathering Lines'' (1st edition, April 2000) (API RP 80), IBR approved for § 192.8(a).

(5) API Recommended Practice 1162, ''Public Awareness Programs for Pipeline Operators'' (1st edition, December 2003) (API RP 1162), IBR approved for § 192.616(a), (b), (c).

(6) API Recommended Practice 1165, ''Recommended Practice for Pipeline SCADA Displays'' (First edition (January 2007)) (API RP 1165), IBR approved for § 192.631(c).

(7) ANSI/API Specification 5L/ISO 3183, ''Specification for Line Pipe'' (45th edition, 12–1–2012) (ANSI/API Spec 5L), IBR approved for §§ 192.55(e); 192.112(a), (b), (d), (e); 192.113; and Item I, Appendix B to Part 192.

(8) ANSI/API Specification 6D, ''Specification for Pipeline Valves'' (23rd edition, April 2008, effective October 1, 2008) and errata 3 (Includes Errata 1, 2, 3, 4, 5, and 6 (2011) and Addenda 1 and 2 (2011)) (ANSI/API Spec 6D), IBR approved for § 192.145(a).

(9) API Standard 1104, ''Welding of Pipelines and Related Facilities'' (20th edition, October 2005, errata/addendum, (July 2007) and errata 2 (2008) (API Std 1104) IBR approved for §§ 192.225(a); 192.227(a); 192.229(c); 192.241(c); and Item II, Appendix B.

(c) ASME International (ASME), Three Park Avenue, New York, NY 10016–5990, 800–843–2763 (U.S/Canada), *http://www.asme.org/.*

(1) ASME/ANSI B16.1–2005, ''Gray Iron Pipe Flanges and Flanged Fittings: (Classes 25, 125, and 250)'' (August 31, 2006) (ASME/ANSI B16.1), IBR approved for § 192.147(c).

(2) ASME/ANSI B16.5–2003, ''Pipe Flanges and Flanged Fittings'' (October 2004) (ASME/ANSI B16.5), IBR approved for §§ 192.147(a) and 192.279.

(3) ASME/ANSI B31G–1991 (Reaffirmed; 2004), ''Manual for Determining the Remaining Strength of Corroded Pipelines'' (ASME/ANSI B31G), IBR approved for §§ 192.485(c) and 192.933(a).

(4) ASME/ANSI B31.8–2007, ''Gas Transmission and Distribution Piping Systems'' (November 30, 2007) (ASME/ANSI B31.8), IBR approved for §§ 192.112(b) and 192.619(a).

(5) ASME/ANSI B31.8S–2004, ''Supplement to B31.8 on Managing System Integrity of Gas Pipelines'' (ASME/ANSI B31.8S–2004), IBR approved for §§ 192.903(c); 192.907(b); 192.911(h), (k), (l), and (m); 192.913(a), (b), (c); 192.917(a), (b), (c), (d), (e); 192.921(a); 192.923(b); 192.925(b); 192.927(b), (c); 192.929(b); 192.933(c), (d); 192.935(a), (b); 192.937(c); 192.939(a); and 192.945(a).

(6) ASME Boiler & Pressure Vessel Code, Section I, ''Rules for Construction of Power Boilers 2007'' (2007 edition, July 1, 2007) (ASME BPVC, Section I), IBR approved for § 192.153(b).

(7) ASME Boiler & Pressure Vessel Code, Section VIII, Division 1 ''Rules for Construction of Pressure Vessels'' (2007 edition, July 1, 2007) (ASME BPVC, Section VIII, Division 1), IBR approved for §§ 192.153(a), (b), (d) and 192.165(b).

(8) ASME Boiler & Pressure Vessel Code, Section VIII, Division 2 ''Alternate Rules, Rules for Construction of Pressure Vessels'' (2007 edition, July 1, 2007) (ASME BPVC, Section VIII, Division 2), IBR approved for § 192.165(b).

(9) ASME Boiler & Pressure Vessel Code, Section IX: ''Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators'' (2007 edition, July 1, 2007) (ASME BPVC, Section IX), IBR approved for §§ 192.225(a); 192.227(a); and Item II, Appendix B to Part 192.

(d) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959, phone: (610) 832–9585, *http://www.astm.org/.*

(1) ASTM A53/A53M–10, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (October 2, 2010) (ASTM A53/A53M), IBR approved for §§ 192.113; and Item II, Appendix B to Part 192.

(2) ASTM A106/A106M–10, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service'' (April 1, 2010) (ASTM A106/A106M), IBR approved for §§ 192.113; and Item I, Appendix B to Part 192.

(3) ASTM A333/A333M–11, ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service'' (April 01, 2011) (ASTM A333/A333M), IBR approved for §§ 192.113; and Item I, Appendix B to Part 192.

(4) ASTM A372/A372M–10 (reapproved 2008), ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels'' (October 1, 2010) (ASTM A372/A372M), IBR approved for § 192.177(b).

(5) ASTM A381–96 (reapproved 2005), ''Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems'' (October 1, 2005) (ASTM A381), IBR approved for §§ 192.113; and Item I, Appendix B to Part 192.

(6) ASTM A578/A578M–96 (reapproved 2001), ''Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications'' (ASTM A578/A578M), IBR approved for § 192.112(c).

(7) ASTM A671/A671M–10, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures'' (April 1, 2010) (ASTM A671/A671M), IBR approved for §§ 192.113; and Item I, Appendix B to Part 192.

(8) ASTM A672–09, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (October 1, 2009). (ASTM A672), IBR approved for §§ 192.113 and Item I, Appendix B to Part 192.

(9) ASTM A691–09, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures'' (October 1, 2009) (ASTM A691), IBR approved for §§ 192.113 and Item I, Appendix B to Part 192.

(10) ASTM D638–03, ''Standard Test Method for Tensile Properties of Plastics'' (except for conditioning) (ASTM D638), IBR approved for § 192.283(a) and (b).

(11) ASTM D2513–87, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings,'' (for non-polyethylene plastic materials only) (ASTM D2513–87), IBR approved for § 192.63(a).

(12) ASTM D2513–99, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings'' (for non-polyethylene plastic materials only) (except section 4.2 pertaining to rework) (ASTM D 2513–99), IBR approved for §§ 192.59(d); 192.191(b); 192.281(b); 192.283(a) and Item 1, Appendix B to Part 192.

(13) ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings'' (except section 4.2 pertaining to rework.) (ASTM D2513–09a), IBR approved for §§ 192.59(d); 192.63(a); 192.123(e), 192.191(b); 192.283(a); Item 1, Appendix B to Part 192.

(14) ASTM D2517–00, ''Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings'' (ASTM D 2517), IBR approved for §§ 192.191(a); 192.281(d); 192.283(a) and Item I, Appendix B to Part 192.

(15) ASTM F1055–1998, ''Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controller Polyethylene Pipe and Tubing'' (ASTM F1055), IBR approved for § 192.283(a).

(e) Gas Technology Institute (GTI), formerly the Gas Research Institute (GRI)), 1700 S. Mount Prospect Road, Des Plaines, IL 60018, phone: 847–768–0500, *www.gastechnology.org.*

(1) GRI 02/0057 (2002) ''Internal Corrosion Direct Assessment of Gas Transmission Pipelines Methodology'' (GRI 02/0057), IBR approved for § 192.927(c).

(2) [Reserved]

(f) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna, VA, 22180–4602, phone: 703–281–6613, *http://www.mss-hq.org/.*

(1) MSS SP–44–2010, Standard Practice, ''Steel Pipeline Flanges,'' (2010

edition) (MSS SP–44), IBR approved for § 192.147(a).

(2) [Reserved]

(g) NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084–4906, phone: 281–228–6223 or 800–797–6223, *http://www.nace.org/Publications/.*

(1) NACE SP0502–2010, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology'' (June 24, 2010) (NACE SP0502), IBR approved for §§ 192.923(b); 192.925(b); 192.931(d); 192.935(b) and 192.939(a).

(2) [Reserved]

(h) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts, 02169–7471, phone: 1 617 984–7275, *http://www.nfpa.org/.*

(1) NFPA–30 (Fire) (2012), ''Flammable and Combustible Liquids Code,'' includes Errata 1, Errata 2 (2012 edition, June 20, 2011) (NFPA–30), IBR approved for § 192.735(b).

(2) NFPA–58 (2004), ''Liquefied Petroleum Gas Code (LP-Gas Code)'' (NFPA–58), IBR approved for § 192.11(a), (b), and (c).

(3) NFPA–59 (2004), ''Utility LP-Gas Plant Code'' (NFPA–59), IBR approved for § 192.11(a), (b), and (c).

(4) NFPA–70 (2011), ''National Electrical Code,'' includes Errata 1, Errata 2 (2011 edition, approved September 24, 2010) (NFPA–70), IBR approved for §§ 192.163(c) and 192.189(c).

(i) Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, P.O. Box 980550, Houston, TX 77098–0550, phone: 713–630–0505, toll free: 866–866–6766, *http://www.ttoolboxes.com/.* (Contract number PR–3–805.)

(1) Pipeline Research Committee Project, PR–3–805, ''A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe,'' (December 22, 1989). The R–STRENG program may be used for calculating remaining strength. (PRCI PR–3–805 (R–STRENG)), IBR approved for §§ 192.485(c), 192.933(a) and 192.933(d).

(2) [Reserved]

(j) Plastics Pipe Institute, Inc. (PPI), 105 Decker Court, Suite 825 Irving TX, 75062, phone: 469–499–1044, *http://www.plasticpipe.org/.*

(1) PPI TR–3/2008 HDB/HDS/PDB/SDB/MRS Policies (2008), ''Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Pressure Design Basis (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe.'' (May 2008), IBR approved for § 192.121.

(2) [Reserved]

§ 192.11 [Amended]

■ 3. In § 192.11, amend paragraphs (a) and (c), by removing the term ''ANSI/NFPA 58/59'' and, adding in its place, the terms ''NFPA 58 and ''NFPA 59 (incorporated by reference, *see* § 192.7).''

§ 192.55 [Amended]

■ 4. In Section 192.55, paragraph (e) is amended by removing the term ''API Specification 5L'' and, adding in its place, the term ''API Spec 5L ''(incorporated by reference, see § 192.7).''

■ 5. In § 192.59, paragraph (d) is added to read as follows:

§ 192.59 Plastic Pipe.

* * * * *

(d) Rework and/or regrind material is not allowed in plastic pipe used under this part.

§ 192.65 [Amended]

■ 6. In § 192.65:

■ a. In paragraph (a)(1), remove the term ''API Recommended Practice 5L1'' and, add in its place the term, ''API RP 5L1.''

■ b. In paragraph (b), remove the term ''API Recommended Practice 5LW'' and, add in its place the term, ''API RP 5LW.''

■ c. Add a new paragraph (c) to read as follows:

* * * * *

§ 192.65 Transportation of pipe

* * * * *

(c) *Truck.* In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by truck unless the transportation is performed in accordance with API RP 5LT (incorporated by reference, *see* § 192.7).

§ 192.112 [Amended]

■ 7. Amend § 192.112 paragraphs (a)(4), (b)(1)(i), (b)(1)(iii), (d)(1) and (e)(1), by removing the term, ''API Specification 5L'' and, add in its place, the term ''API Spec 5L.''

■ 8. Amend § 192.112 paragraph (c)(2)(i), by removing the term, ''API 5L'' and, add in its place the term ''API Spec 5L.''

§ 192.113 [Amended]

■ 9. Amend § 192.113, Table, by removing the term, ''API 5L'' and, add in its place the term ''API Spec 5L.''

§ 192.123 [Amended]

■ 10. Amend § 192.123 paragraph (e)(2) as follows:

■ a. In paragraph (e)(2), remove the terms ''PE2406 or a PE3408'' and, add in their place, ''polyethylene (PE).''

■ b. In paragraph (e)(2), remove the term ''ASTM D2513–99'' and, add in its place the term ''ASTM D 2513.''

§ 192.145 [Amended]

■ 11. Amend § 192.145 paragraph (a), by removing the term ''API 6D'' and, adding in its place the term, ''ANSI/API Spec 6D.''

§ 192.147 [Amended]

■ 12. Amend § 192.147 paragraphs (a) and (c) as follows:

■ a. In paragraph (a), remove the terms ''ASME/ANSI B 16.5, MSS SP–44'' and, add in their place the terms, ''ASME/ANSI B 16.5 (incorporated by reference, *see* § 192.7)'' and ''MSS SP–44 (incorporated by reference, *see* § 192.7).''

■ b. In paragraph (c), remove the term ''ASME/ANSI B16.1'' and, add in its place the term, ''ASME/ANSI B16.1 (incorporated by reference, *see* § 192.7).''

■ 13. In § 192.153, revise paragraphs (a), (b), and (d) to read as follows:

§ 192.153 Components fabricated by welding.

(a) Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, the design pressure of each component fabricated by welding, whose strength cannot be determined, must be established in accordance with paragraph UG–101 of the ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1) (incorporated by reference, *see* § 192.7).

(b) Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with section 1 of the ASME BPVC (Section VIII, Division 1 or Section VIII, Division 2) (incorporated by reference, *see* § 192.7), except for the following:

* * * * *

(d) Except for flat closures designed in accordance with the ASME BPVC (Section VIII, Division 1 or 2) flat closures and fish tails may not be used on pipe that either operates at 100 p.s.i. (689 kPa) gage or more, or is more than 3 inches (76 millimeters) nominal diameter.

§ 192.163 [Amended]

■ 14. Amend § 192.163, paragraph (e), by removing the term ''National Electrical Code, ANSI/NFPA 70'' and adding, in its place, ''NFPA–70.''

§ 192.165 [Amended]

■ 15. Amend § 192.165, paragraph (b)(3), by removing the term ''ASME Boiler and Pressure Vessel Code'' and adding, in its place the term ''ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 192.7).''

§ 192.177 [Amended]

■ 16. Amend § 192.177 paragraph (b)(1), by removing the term ''ASTM A372/372'' and adding, in its place the term ''ASTM A372/372M (incorporated by reference, *see* § 192.7).''

§ 192.189 [Amended]

■ 17. Amend § 192.189 paragraph (c), by removing the reference ''ANSI/NFPA 70'' and adding, in its place the abbreviation ''NFPA–70'' and adding, the term ''(incorporated by reference, *see* § 192.7).''

§ 192.225 [Amended]

■ 18. Amend § 192.225 paragraph (a), as follows:

■ a. Remove the term ''API 1104'' and add, in its place, the term ''API Std 1104.''

■ b. Remove the term ''ASME Boiler and Pressure Vessel Code, ''Welding and Brazing Qualifications'' and add, in its place, the term ''ASME Boiler and Pressure Vessel Code (BPVC).''

§ 192.227 [Amended]

■ 19. In § 192.227, paragraph (a) is amended as follows:

■ a. Remove the term ''API 1104'' and add, in its place, the term ''API Std 1104.''

■ b. Remove the term ''ASME Boiler and Pressure Vessel Code'' and add, in its place, the term ''ASME Boiler and Pressure Vessel Code (BPVC).''

§ 192.229 [Amended]

■ 20. Amend § 192.229 paragraph (c)(1), by removing the term ''API Standard 1104'' and adding, in its place, the term ''API Std 1104.''

§ 192.241 [Amended]

■ 21. Amend § 192.241 paragraph (c), by removing the terms ''API Standard 1104'' and ''API 1104'' and adding, in their place, the term ''API Std 1104.''

§ 192.281 [Amended]

■ 22. Amend § 192.281 paragraph (d)(1), by removing the term ''ASTM Designation D2517'' and adding, in its place, the term ''ASTM D 2517 (incorporated by reference, *see* § 192.7).''

§ 192.283 [Amended]

■ 23. Amend § 192.283 as follows:

■ a. Revise paragraph (a)(1)(i) to read as set forth below.

■ b. Amend § 192.283 paragraph (a)(1)(iii), by removing the term ''ASTM Designation F1055'' and adding, in its place, the term ''ASTM F1055 (incorporated by reference, *see* § 192.7).''

§ 192.283 Plastic pipe: Qualifying joining procedures.

(a) * * *

(1) * * *

(i) In the case of thermoplastic pipe, paragraph 6.6 (Sustained Pressure Test) or paragraph 6.7 (Minimum Hydrostatic Burst Test) of ASTM D2513 (except section 4.2 pertaining to rework material) (incorporated by reference, *see* § 192.7).

* * * * *

§ 192.485 [Amended]

■ 24. Amend § 192.485, paragraph (c) as follows:

■ a. Remove the term ''ASME/ANSI B 31G'' and add, in its place, the term ''ASME/ANSI B31G (incorporated by reference, *see* § 192.7).''

■ b. Remove the term, ''AGA Pipeline Research Committee Project PR 3–805 (with RSTRENG disk)'' and add, in its place, the term ''PRCI PR 3–805 (R–STRENG) (incorporated by reference, *see* § 192.7).''

§ 192.735 [Amended]

■ 25. Amend § 192.735 paragraph (b) by removing the term, ''National Fire Protection Association Standard No. 30'' and adding, in its place, the term ''NFPA–30 (incorporated by reference, *see* § 192.7).''

§ 192.903 [Amended]

■ 26. Amend § 192.903, in the Note, by removing the term ''ASME/ANSI B31.8S–2001 (Supplement to ASME B31.8; incorporated by reference, *see* § 192.7)'' and adding, in its place, the term ''ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7).''

■ 27. In § 192.923, paragraphs (a) and (b) are revised to read as follows:

§ 192.923 How is direct assessment used and for what threats?

(a) *General.* An operator may use direct assessment either as a primary assessment method or as a supplement to the other assessment methods allowed under this subpart. An operator may only use direct assessment as the primary assessment method to address the identified threats of external corrosion (EC), internal corrosion (IC), and stress corrosion cracking (SCC).

(b) *Primary method.* An operator using direct assessment as a primary assessment method must have a plan that complies with the requirements in—

(1) ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7) section 6.4, NACE SP0502 (incorporated by reference, *see* § 192.7), and § 192.925 if addressing external corrosion (EC).

(2) ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 6.4, appendix B2, and§ 192.927 if addressing internal corrosion (IC).

(3) ASME/ANSI B31.8S, appendix A3, and § 192.929 if addressing stress corrosion cracking (SCC).

* * * * *

■ 28. In § 192.933, revise paragraphs (a)(1), and (d)(1)(i) to read as follows:

§ 192.933 What actions must be taken to address integrity issues?

(a) * * *

(1) *Temporary pressure reduction.* If an operator is unable to respond within the time limits for certain conditions specified in this section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must determine any temporary reduction in operating pressure required by this section using ASME/ANSI B31G (incorporated by reference, *see* § 192.7) or Pipeline Research Council, International, PR–3–805 (R–STRENG) (incorporated by reference, *see* § 192.7) or reduce the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. An operator must notify PHMSA in accordance with § 192.949 if it cannot meet the schedule for evaluation and remediation required under paragraph (c) of this section and cannot provide safety through temporary reduction in operating pressure or other action. An operator must also notify a state pipeline safety authority when either a covered segment is located in a state where PHMSA has an interstate agent agreement, or an intrastate covered segment is regulated by that state.

* * * * *

(d) * * *

(1) * * *

(i) A calculation of the remaining strength of the pipe shows a predicted failure pressure less than or equal to 1.1 times the maximum allowable operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, ASME/ANSI B31G (incorporated by reference, *see* § 192.7); PRCI PR–3–805 (R–STRENG) (incorporated by reference, *see* § 192.7); or an alternative equivalent method of remaining strength calculation.

* * * * *

§ 192.939 [Amended]

■ 29. Amend § 192.939 paragraph (a)(1)(ii), by removing the term ''ASME B31.8S'' and adding, in its place the term, ''ASME B31.8S (incorporated by reference, *see* § 192.7).''

■ 30. Amend Appendix B to Part 192—Qualification of Pipe parts (I) and (II) as follows:

■ a. Revise Part I of Appendix B to Part 192 to read as set forth below.

■ b. Amend the second paragraph of Appendix B to Part 192, Part II, A, by removing the term ''ASTM A53'' and adding, in its place the term, ''ASTM A53/A53M–10.''

Appendix B to Part 192—Qualification of Pipe

I. Listed Pipe Specifications

ANSI/API Specification 5L/ISO 3183—Steel pipe, ''Specification for Line Pipe'' (incorporated by reference, *see* § 192.7).

ASTM A53/A53M—Steel pipe, ''Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (incorporated by reference, *see* § 192.7).

ASTM A106/A106M—Steel pipe, ''Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service'' (incorporated by reference, *see* § 192.7).

ASTM A333/A333M—Steel pipe, ''Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service'' (incorporated by reference, *see* § 192.7).

ASTM A381—Steel pipe, ''Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems'' (incorporated by reference, *see* § 192.7).

ASTM A671/A671M—Steel pipe, ''Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures'' (incorporated by reference, *see* § 192.7).

ASTM A672—Steel pipe, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (incorporated by reference, *see* § 192.7).

ASTM A691—Steel pipe, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures'' (incorporated by reference, *see* § 192.7).

ASTM D2513–87—Thermoplastic pipe and tubing, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings'' (incorporated by reference, *see* § 192.7).

ASTM D2513–99—Non-polyethylene thermoplastic pipe and tubing, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings'' (except section 4.2 pertaining to rework material), (incorporated by reference, *see* § 192.7).

ASTM D2513–09a—Polyethylene thermoplastic pipe and tubing, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings'' (except section 4.2 pertaining to rework material) (incorporated by reference, *see* § 192.7).

ASTM D2517—Thermosetting plastic pipe and tubing, ''Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings'' (incorporated by reference, *see* § 192.7).

* * * * *

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

■ 31. The authority citation for part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

§§ 193.2019, 193.2051, 193.2301, 193.2303, 193.2401, 193.2521, 193.2639, and 193.2801 [Amended]

■ 32. In 49 CFR Part 193, remove the term ''NFPA 59A'' and add, in its place ''NFPA–59A (2001),'' everywhere it appears in the following sections:

a. Section 193.2019 (a);
b. Section 193.2051;
c. Section 193.2057, introductory text;
f. Section 193.2301, introductory text;
g. Section 193.2303;
h. Section 193.2401;
i. Section 193.2521;
j. Section 193.2639 paragraph (a); and
k. Section 193.2801.

■ 33. Section 193.2013 is revised to read as follows:

§ 193.2013 Incorporation by Reference.

(a) This part prescribes standards, or portions thereof, incorporated by reference (IBR). The material incorporated by reference is treated as if it were published in full in the **Federal Register** (5 U.S.C. 552(a)) and has the full force of law. The materials listed in this section have been approved for IBR by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material is incorporated as it existed on the date of the approval by the **Federal Register** and any changes thereafter will also be published in the **Federal Register**.

(1) *Availability of standards incorporated by reference.* All of the materials incorporated by reference are available for inspection from several sources, including the following:

(i) The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. For information contact 1–202–366–202–4046 or go to: *http://www.phmsa.dot.gov/pipeline/regs.*

(ii) (A) The National Archives and Records Administration (NARA), Office of the Federal Register (OFR), 800 North Capitol Street NW., Suite 700, Washington, DC 20001.

(B) For information on the availability of this material and how to make an appointment, contact NARA, by telephone 202–741–6030 or go to: *http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html.*

(iii) The respective standards-developing organizations listed in this section.

(2) For information concerning standards available free of charge for visual inspection, please see the links on PHMSA's Web site at: *http://www.phmsa.dot.gov/pipeline/regs.*

(3) *Standards incorporated by reference.* The full titles of documents incorporated by reference, in whole or in part, are provided herein. The numbers in parentheses indicate applicable editions. For each incorporated document, citations of all affected sections are provided. Earlier editions of currently listed documents or editions of documents listed in previous editions of 49 CFR part 193 may be used for materials and components designed, manufactured, or installed in accordance with these earlier documents at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR part 193 for a listing of the earlier listed editions or documents. The full titles of publications incorporated by reference wholly or partially in this part are as follows:

(b) American Gas Association (AGA), 400 North Capitol Street NW., Washington, DC 20001, phone: 1–202–824–7000, *http://www.aga.org/.*

(1) ''Purging Principles and Practices'' (3rd edition, 2001), IBR approved for §§ 193.2513 (b) and (c); 193.2517 and 193.2615 (a).

(c) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, phone: 202–289–2250, *http://api.org/.*

(1) API Standard 620 ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks'' (11th edition February 2008, addendum 1, March 2009), and addendum 2 (2010) (API Std 620), IBR approved for §§ 193.2101(b) and 193.2321 (b).

(2) [Reserved]

(d) American Society of Civil Engineers (ASCE), 1801 Alexander Bell Drive, Reston, VA 20191, (800) 548–2723, (703) 295–6300 (International), *http://www.asce.org.*

(1) ASCE/SEI 7–05 ''Minimum Design Loads for Buildings and Other Structures'' (2005 edition, includes supplement No. 1 and Errata) (ASCE/SEI 7–05), IBR approved for § 193.2067 (b).

(2) [Reserved]

(e) ASME International (ASME), Three Park Avenue, New York, NY

10016–5990, 800–843–2763 (U.S./Canada), *http://www.asme.org/.*

(1) ASME Boiler & Pressure Vessel Code, Section VIII, Division 1 ''Rules for Construction of Pressure Vessels'' (2007 edition, July 1, 2007) (ASME BPVC, Section VIII, Division 1), IBR approved for § 193.2321 (a).

(2) [Reserved]

(f) Gas Technology Institute (GTI), formerly the Gas Research Institute (GRI)), 1700 S. Mount Prospect Road, Des Plaines, IL 60018, phone: 847–768–0500, *www.gastechnology.org.*

(1) GRI–96/0396.5, ''Evaluation of Mitigation Methods for Accidental LNG Releases, Volume 5: Using FEM3A for LNG Accident Consequence Analyses'' (April 1997) (GRI–96/0396.5), IBR approved for § 193.2059 (a).

(2) GTI–04/0032 LNGFIRE3: A Thermal Radiation Model for LNG Fires (March 2004) (GTI–04/0032 LNGFIRE3), IBR approved for § 193.2057 (a).

(3) GTI–04/0049 (April 2004) ''LNG Vapor Dispersion Prediction with the DEGADIS 2.1: Dense Gas Dispersion Model for LNG Vapor Dispersion'' (GTI–04/0049), IBR approved for § 193.2059 (a).

(g) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts d02169–7471, phone: 1 617 984–7275, *http://www.nfpa.org/.*

(1) NFPA 59A, (2001) ''Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)'' (NFPA–59A–2001), IBR approved for §§ 193.2019; 193.2051; 193.2057; 193.2059; 193.2101 (a); 193.2301; 193.2303; 193.2401; 193.2521; 193.2639 and 193.2801.

(2) NFPA 59A, (2006) ''Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)'' (2006 edition, Approved August 18, 2005) (NFPA–59A–2006), IBR approved for §§ 193.2101 (b) and 193.2321 (b).

§ 193.2059 [Amended]

■ 34. Amend § 193.2059 as follows:

■ a. Amend the introductory text, by removing the term ''NFPA 59A'' and adding, in its place, the term ''NFPA–59A–2001.''

■ b. Amend paragraph (a) by removing the words, ''Gas Research Institute report GRI–89/0242 (incorporated by reference, *see* § 193.2013), ''LNG Vapor Dispersion Prediction with the DEGADIS Dense Gas Dispersion Model'' and adding, in its place, ''GTI–04/0049, ''LNG Vapor Dispersion Prediction with the DEGADIS 2.1 Dense Gas Dispersion Model'' (incorporated by reference, *see* 193.2013).''

■ c. Amend paragraph (c), by removing the term ''NFPA 59A'' and adding, in its place, the term, ''NFPA–59A–2001.''

§ 193.2067 [Amended]

■ 35. Amend § 193.2067 paragraph (b)(1), by removing the term ''ASCE/SEI 7–05'' and adding, in its place the term, ''ASCE/SEI 7.''

■ 36. In § 193.2321, revise paragraphs (a), (b)(1), and (b)(2) to read as follows:

§ 193.2321 Nondestructive tests.

(a) The butt welds in metal shells of storage tanks with internal design pressure above 15 psig must be nondestructively examined in accordance with the ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1) (incorporated by reference, *see* § 193.2012), except that 100 percent of welds that are both longitudinal (or meridional) and circumferential (or latitudinal) of hydraulic load bearing shells with curved surfaces that are subject to cryogenic temperatures must be nondestructively examined in accordance with the ASME BPVC (Section VIII, Division 1).

(b) * * *

(1) Section 7.3.1.2 of NFPA–59A (2006), (incorporated by reference, *see* § 193.2012);

(2) Appendices Q and C of API Std 620, (incorporated by reference, *see* § 193.2012);

* * * * *

§ 193.2513 [Amended]

■ 37. Amend § 193.2513, paragraphs (b)(1) and (c)(5), by removing the term ''AGA, ''Purging Principles and Practice'' and adding, in its place, ''AGA, ''Purging Principles and Practices'' (incorporated by reference, *see* § 193.2012).''

§ 193.2517 [Amended]

■ 38. Amend § 193.2517, by removing the words ''AGA, ''Purging Principles and Practice'' and adding, in its place, ''AGA, ''Purging Principles and Practices'' (incorporated by reference, *see* § 193.2012).''

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 39. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118 and 60137; and 49 CFR 1.53.

§§ 195.5 and 193.406 [Amended]

■ 40. Amend 49 CFR part 195, by removing the term ''ASME B31.8'' and adding, in its place, the term ''ASME/ANSI B31.8 (incorporated by reference, *see* § 195.3),'' in the following sections.

■ a. Section 195.5 paragraph (a)(1)(i);

■ b. Section 195.406 paragraph (a)(1)(i).

■ 41. Section 195.3 is revised to read as follows:

§ 195.3 Incorporation by Reference.

(a) This part prescribes standards, or portions thereof, incorporated by reference (IBR). The material incorporated by reference is treated as if it were published in full in the **Federal Register** (5 U.S.C. 552(a)) and has the full force of law. The materials listed in this section have been approved for IBR by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material is incorporated as it existed on the date of the approval by the **Federal Register** and any changes thereafter will also be published in the **Federal Register**.

(1) *Availability of standards incorporated by reference.* All of the materials incorporated by reference are available for inspection from several sources, including the following:

(i) The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC, 20590–0001. For information contact 1-202–366–202–4046 or go to: *http://www.phmsa.dot.gov/pipeline/regs.*

(ii) (A) The National Archives and Records Administration (NARA), Office of the Federal Register (OFR), 800 North Capitol Street NW., Suite 700, Washington, DC 20001.

(B) For information on the availability of this material and how to make an appointment, contact NARA, by telephone 202–741–6030 or go to: *http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html.*

(iii) The standards-developing organization listed in this section.

(2) For information concerning standards available free of charge for visual inspection, please see the links on PHMSA's Web site at: *http://www.phmsa.dot.gov/pipeline/regs.*

(3) *Standards incorporated by reference.* The full titles of documents incorporated by reference, in whole or in part, are provided herein. The numbers in parentheses indicate applicable editions. For each incorporated document, citations of all affected sections are provided. Earlier editions of currently listed documents or editions of documents listed in previous editions of 49 CFR part 195 may be used for materials and components designed, manufactured, or installed in accordance with these earlier documents at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR part 195 for a listing of the earlier listed editions or documents. The full titles of

publications incorporated by reference wholly or partially in this part are as follows:

(b) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, phone: 202–289–2250, *http://api.org/.*

(1) API Publication 2026, ''Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service'' (2nd edition, April 1998, reaffirmed June 2006) (API Pub 2026), IBR approved for § 195.405 (b).

(2) API Recommended Practice 5L1 ''Recommended Practice for Railroad Transportation of Line Pipe'' (7th Edition, September 2009) (API RP 5L1), IBR approved for § 195.207 (a).

(3) API Recommended Practice 5LT, ''Recommended Practice for Truck Transportation of Line Pipe'' (March 12, 2012) (API RP 5LT), IBR approved for § 195.207 (c).

(4) API Recommended Practice 5LW, ''Transportation of Line Pipe on Barges and Marine Vessels'' (3rd edition, September 2009) (API RP 5LW), IBR approved for § 195.207 (b).

(5) ANSI/API Recommended Practice 651, ''Cathodic Protection of Aboveground Petroleum Storage Tanks'' (3rd edition, January 2007) (ANSI/API RP 651), IBR approved for §§ 195.565 and 195.573 (d).

(6) ANSI/API Recommended Practice 652, ''Linings of Aboveground Petroleum Storage Tank Bottoms'' (3rd edition, October 2005) (API RP 652), IBR approved for § 195.579 (d).

(7) API Recommended Practice 1130, ''Computational Pipeline Monitoring for Liquids: Pipeline Segment'' (1st edition, September 2007) (API RP 1130), IBR approved for §§ 195.134 and 195.444.

(8) API Recommended Practice 1162, ''Public Awareness Programs for Pipeline Operators'' (1st edition, December 2003) (API RP 1162), IBR approved for § 195.440 (a), (b) and (c).

(9) API Recommended Practice 1165 ''Recommended Practice for Pipeline SCADA Displays'' (First edition (January 2007)) (API RP 1165), IBR approved for § 195.446 (c).

(10) API Recommended Practice 1168 ''Pipeline Control Room Management'' First Edition (September 2008) (API RP 1168), IBR approved for § 195.446 (c) and (f).

(11) API Recommended Practice 2003, ''Protection against Ignitions Arising out of Static, Lightning, and Stray Currents'' (7th edition, January 2008) (API RP 2003), IBR approved for § 195.405.

(12) API Recommended Practice 2350, ''Overfill Protection for Storage Tanks in Petroleum Facilities''' (3rd edition, January 2005) (API RP 2350), IBR approved for § 195.428 (c).

(13) ANSI/API Specification 5L/ISO 3183 ''Specification for Line Pipe'' ANSI/API Specification 5L/ISO 3183 ''Specification for Line Pipe'' (45th edition, 12–1–2012) (ANSI/API Spec 5L), IBR approved for § 195.106.

(14) ANSI/API Specification 6D, ''Specification for Pipeline Valves'' (23rd edition, April 2008, effective October 1, 2008) and errata 3 (Includes Errata 1, 2, 3, 4, 5, and 6 (2011) and Addenda 1 and 2 (2011)) (ANSI/API Spec 6D), IBR approved for § 195.116.

(15) API Specification 12F, ''Specification for Shop Welded Tanks for Storage of Production Liquids'' (12th edition, October 2008, including errata 2008) (API Spec 12F), IBR approved for §§ 195.132; 195.205; 195.264; 195.307; 195.565; and 195.579.

(16) API Standard 510, ''Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration'' (9th edition, June 2006) (API Std 510), IBR approved for §§ 195.205 and 195.432.

(17) API Standard 620, ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks'' (11th edition February 2008, addendum 1, March 2009), and includes addendum 2 (2010) (API Std 620), IBR approved for §§ 195.132; 195.205; 195.264; and 195.307, 195.565, and 195.620.

(18) API Standard 650, ''Welded Steel Tanks for Oil Storage'' (11th edition, June 2007), includes addendum 1 (November 2008), addendum 2 (November 2009), addendum 3 (August 2011), and errata (February 2012) (API Std 650), IBR approved for §§ 195.132; 195.205; 195.264; 195.307; 195.565; and 195.579.

(19) API Standard 653, ''Tank Inspection, Repair, Alteration, and Reconstruction'' (3rd edition, December 2001, includes addendum 1 (September 2003), addendum 2 (November 2005), addendum 3 (February 2008), and errata (April 2008)) (except—section 6.4.3) (API Std 653), IBR approved for §§ 195.205 (b); 195.307 (d) and 195.432 (b).

(20) API Standard 1104, ''Welding of Pipelines and Related Facilities'' (20th edition, October 2005, errata/addendum (July 2007) and, errata 2 (2008) (API Std 1104), IBR approved for §§ 195.222 (a) and 195.228 (b).

(21) API Standard 2000, ''Venting Atmospheric and Low-Pressure Storage Tanks'' (6th edition, November 1, 2009) (API Std 2000), IBR approved for § 195.264 (e).

(22) API Standard 2510, ''Design and Construction of LPG Installations'' (8th edition, 2001) (API Std 2510), IBR approved for §§ 195.132 (b); 195.205 (b); 195.264 (b) & (e); 195.307 (e); 195.428 (c) and 195.432 (c).

(c) ASME International (ASME), Two Park Avenue, New York, NY 10016–5990, 800–843–2763 (U.S/Canada), *http://www.asme.org/.*

(1) ASME/ANSI B16.9–2007, ''Factory-Made Wrought Buttwelding Fittings'' (December 7, 2007) (ASME/ANSI B16.9), IBR approved for § 195.118 (a).

(2) ASME/ANSI B31G–1991 (Reaffirmed; 2004), ''Manual for Determining the Remaining Strength of Corroded Pipelines'' (ASME/ANSI B31G), IBR approved for §§ 195.452 (h) and 195.587.

(3) ASME/ANSI B31.4–2006, ''Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids'' (October 20, 2006) (ASME/ANSI B31.4), IBR approved for §§ 195.110.

(4) ASME/ANSI B31.8–2007, ''Gas Transmission and Distribution Piping Systems'' (November 30, 2007) (ASME/ANSI B31.8), IBR approved for §§ 195.5 (a) and 195.406 (a).

(5) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 1 ''Rules for Construction of Pressure Vessels'' (2010 edition, July 1, 2007) (ASME BPVC, Section VIII, Division 1), IBR approved for §§ 195.124 and 195.307 (e).

(6) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 2 ''Alternate Rules, Rules for Construction of Pressure Vessels'' (2010 edition, July 1, 2007) (ASME BPVC, Section VIII, Division 2), IBR approved for § 195.307 (e).

(7) 2007 ASME Boiler & Pressure Vessel Code, Section IX: ''Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators'' (2007 edition, July 1, 2007) (ASME BPVC, Section IX), IBR approved for § 195.307 (e).

(d) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 119428–2959, phone: (610) 832–9585, *http://www.astm.org/.*

(1) ASTM A53/A53M–10, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (October 2, 2010) (ASTM A53/A53M), IBR approved for § 195.106.

(2) ASTM A106/A106M–10, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service'' (April 1, 2010) (ASTM A106/A106M), IBR approved for § 195.106 (e).

(3) ASTM A333/A333M–11, ''Standard Specification for Seamless

and Welded Steel Pipe for Low-Temperature Service'' (April 01, 2011) (ASTM A333/A333M), IBR approved for § 195.106 (e).

(4) ASTM A381–96 (reapproved 2005), ''Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems'' (October 1, 2005) (ASTM A381), IBR approved for § 195.106 (e).

(5) ASTM A671/A671M–10, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures'' (April 1, 2010) (ASTM A671/A671M), IBR approved for § 195.106 (e).

(6) ASTM A672–09, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (October 1, 2009) (ASTM A672), IBR approved for § 195.106 (e).

(7) ASTM A691–09, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures'' (October 1, 2009) (ASTM A691), IBR approved for § 195.106 (e).

(e) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna, VA 22180–4602, phone: 703–281–6613, *http://www.mss-hq.org/.*

(1) MSS SP–75–2008, ''Specification for High Test Wrought Butt Welding Fittings'' (MSS SP 75), IBR approved for § 195.118 (a).

(2) [Reserved]

(f) NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084–4906, phone: 281–228–6223 or 800–797–6223, *http://www.nace.org/Publications/.*

(1) NACE SP0169–2007, Standard Practice, ''Control of External Corrosion on Underground or Submerged Metallic Piping Systems'' (reaffirmed March 15, 2007) (NACE SP0169), IBR approved for §§ 195.571 and 195.573 (a)(2).

(2) NACE SP0502–2010, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology'' (June 24, 2010) (NACE SP0502), IBR approved for § 195.588 (b).

(g) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169–7471, phone: 1 617 984–7275, *http://www.nfpa.org/.*

(1) NFPA–30 (Fire) (2012), ''Flammable and Combustible Liquids Code,'' includes Errata 1, Errata 2 (2012 edition, June 20, 2011) (NFPA–30), IBR approved for § 195.264 (b).

(2) [Reserved]

(h) Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, P. O. Box 980550, Houston, TX 77098–0550, phone: 713–630–0505, toll free: 866–866–6766, *http://www.ttoolboxes.com/.* (Formerly publication number AGA Project PR–3–805.)

(1) Pipeline Research Committee, Project PR–3–805, ''A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe,'' (December 22, 1989). The RSTRENG program may be used for calculating remaining strength. (PRCI PR–3–805 (R–STRENG)), IBR approved for § 195.587.

(2) [Reserved]

■ 42. Amend § 195.106 as follows:

■ a. In paragraph (b)(1)(i), remove the term ''API Specification 5L'' and, add in its place, the term ''ANSI/API Spec 5L (incorporated by reference, *see* § 195.3).''

■ b. Revise paragraph (e) to read as follows:

§ 195.106 Internal design pressure.

* * * * *

(e)(1) The seam joint factor used in paragraph (a) of this section is determined in accordance with the following standards incorporated by reference (*see* § 195.3):

Specification	Pipe class	Seam joint factor
ASTM A53/A53M	Seamless	1.00
	Electric resistance welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTM A106/A106M	Seamless	1.00
ASTM A333/A333M	Seamless	1.00
	Welded	1.00
ASTM A381	Double submerged arc welded	1.00
ASTM A671/A671M	Electric-fusion-welded	1.00
ASTM A672	Electric-fusion-welded	1.00
ASTM A691	Electric-fusion-welded	1.00
ANSI/API Spec 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60

(2) The seam joint factor for pipe which is not covered by this paragraph must be approved by the Administrator.

§ 195.116 [Amended]

■ 43. Amend § 195.116 paragraph (d), by removing the term ''API Standard 6D'' and adding, in its place the term, ''ANSI/API Spec 6D.''

§ 195.118 [Amended]

■ 44. Amend § 195.118 paragraph (a), by removing the terms ''ASME/ANSI B16.9 or MSS Standard Practice SP–75'' and adding, in their place the terms ''ASME/ANSI B16.9 (incorporated by reference, *see* § 195.3) or MSS SP–75 (incorporated by reference, *see* § 195.3).''

■ 45. Section 195.124 is revised to read as follows:

§ 195.124 Closures.

Each closure to be installed in a pipeline system must comply with the 2007 ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1) (incorporated by reference, *see* § 195.3) and must have pressure and temperature ratings at least equal to those of the pipe to which the closure is attached.

§ 195.132 [Amended]

■ 46. Amend § 195.132 paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) as follows:

■ a. Amend paragraph (b)(1) by removing the term ''API Specification 12F'' and adding, in its place ''API Spec 12F (incorporated by reference, *see* § 195.3).''

■ b. Amend paragraph (b)(2) by removing the term ''API Standard 620'' and adding, in its place ''API Std 620

(incorporated by reference, *see* § 195.3).''

■ c. Amend paragraph (b)(3), by removing the term ''API Standard 650'' and adding, in its place ''API Std 650 (incorporated by reference, *see* § 195.3).''

■ d. Amend paragraph (b)(4), by removing the term ''API Standard 2510'' and adding, in its place ''API Std 2510 (incorporated by reference, *see* § 195.3).''

§ 195.134 [Amended]

■ 47. Amend § 195.134, by removing the term ''API 1130'' and adding, in its place ''API RP 1130 (incorporated by reference, *see* § 195.3),'' the first instance, and adding, in its place ''API RP 1130,'' the second instance.

■ 48. In 195.205, paragraph (b) is revised to read as follows:

§ 195.205 Repair, alteration and reconstruction of aboveground breakout tanks that have been in service.

* * * * *

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following:

(1) For tanks designed for approximate atmospheric pressure, constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated, and for tanks built to API Std 650 (incorporated by reference, *see* § 195.3), or its predecessor Standard 12C, repair, alteration, and reconstruction must be in accordance with API Std 653 (incorporated by reference, *see* § 195.3).

(2) For tanks built to API Spec 12F (incorporated by reference, see § 195.3) or API Std 620 (incorporated by reference, *see* § 195.3), repair, alteration, and reconstruction must be in accordance with the design, welding, examination, and material requirements of those respective standards.

(3) For high pressure tanks built to API Std 2510 (incorporated by reference, *see* § 195.3), repairs, alterations, and reconstruction must be in accordance with API Std 510 (incorporated by reference, *see* § 195.3).

■ 49. Amend § 195.207 as follows:

■ a. In paragraph (a), remove the term, ''API Recommended Practice 5L1'' and add, in its place, the term ''API RP 5L1.''

■ b. In paragraph (b), remove the term, ''API Recommended Practice 5LW'' and add, in its place, the term ''API RP 5LW.''

■ c. Add a new paragraph (c) to read as set forth below:

§ 195.207 Transportation of pipe.

* * * * *

(c) Truck. In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by truck unless the transportation is performed in accordance with API RP 5LT (incorporated by reference, *see* § 195.3).

■ 50. In § 195.222, revise the section heading, paragraphs (a) and (b)(2) to read as follows:

§ 195.222 Welders: Qualification of welders and welding operators.

(a) Each welder or welding operator must be qualified in accordance with section 6 or 12 of API Std 1104 (incorporated by reference, *see* § 195.3) or with Section IX of 2007 ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 195.3), except, that a welder qualified under an earlier edition than listed in § 195.3 may weld, but may not re-qualify under that earlier edition.

(b) * * *

(2) Had one weld tested and found acceptable under section 9 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3).

§ 195.228 [Amended]

■ 51. Amend § 195.228 paragraph (b), by removing the term ''API 1104'' and, add in its place the term, ''API Std 1104'' in two locations.

■ 52. In § 195.264, the introductory text of paragraph (b)(1), and paragraphs (b)(2), (e)(1), (e)(2), (e)(3), and (e)(4) are revised to read as follows:

§ 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

* * * * *

(b) * * *

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 or its predecessor Standard 12C), the installation of impoundment must be in accordance with the following sections of NFPA–30 (incorporated by reference, *see §* 195.3);

* * * * *

(2) For tanks built to API Std 2510 (incorporated by reference, *see* § 195.3), the installation of impoundment must be in accordance with section 5 or 11 of API Std 2510.

* * * * *

(e) * * *

(1) Normal/emergency relief venting installed on atmospheric pressure tanks built to API Spec 12F must be in accordance with section 4, and Appendices B and C, of API Spec 12F (incorporated by reference, *see* § 195.3).

(2) Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Std 650 (or its predecessor Standard 12C) must be in accordance with API Std 2000 (incorporated by reference, *see* § 195.3).

(3) Pressure-relieving and emergency vacuum-relieving devices installed on low pressure tanks built to API Std 620 must be in accordance with section 9 of API Std 620 (incorporated by reference, *see* § 195.3) and its references to the normal and emergency venting requirements in API Std 2000 (incorporated by reference, *see* § 195.3)

(4) Pressure and vacuum-relieving devices installed on high pressure tanks built to API Std 2510 must be in accordance with sections 7 or 11 of API Std 2510 (incorporated by reference, *see* § 195.3).

■ 53. Section 195.307 is revised to read as follows:

§ 195.307 Pressure testing aboveground breakout tanks.

(a) For aboveground breakout tanks built into API Spec 12F (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, pneumatic testing must be in accordance with section 5.3 of API Spec 12 F.

(b) For aboveground breakout tanks built to API Std 620 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 7.18 of API Std 620.

(c) For aboveground breakout tanks built to API Std 650 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, testing must be in accordance with Sections 7.3.5 and 7.3.6 of API Standard 650.

(d) For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated, and tanks built to API Std 650 (incorporated by reference, *see* § 195.3), or its predecessor Standard 12C, that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in Section 12.3 of API Std 653.

(e) For aboveground breakout tanks built to API Std 2510 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, pressure testing must be in accordance with 2007 ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1 or 2).

■ 54. Section 195.405 is revised to read as follows:

§ 195.405 Protection against ignitions and safe access/egress involving floating roofs.

(a) After October 2, 2000, protection provided against ignitions arising out of

static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks must be in accordance with API RP 2003 (incorporated by reference, *see* § 195.3), unless the operator notes in the procedural manual (§ 195.402(c)) why compliance with all or certain provisions of API RP 2003 is not necessary for the safety of a particular breakout tank.

(b) The hazards associated with access/egress onto floating roofs of in-service aboveground breakout tanks to perform inspection, service, maintenance or repair activities (other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Pub 2026 (incorporated by reference, *see* § 195.3). After October 2, 2000, the operator must review and consider the potentially hazardous conditions, safety practices and procedures in API Pub 2026 for inclusion in the procedure manual (§ 195.402(c)).

■ 55. In § 195.428, revise paragraph (c) to read as follows:

§ 195.428 Overpressure safety devices and overfill protection systems.

* * * * *

(c) Aboveground breakout tanks that are constructed or significantly altered according to API Std 2510 (incorporated by reference, *see* § 195.3) after October 2, 2000, must have an overfill protection system installed according to section 7.1.2 of API Std 2510. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly altered after October 2, 2000, must have an overfill protection system installed according to API RP 2350 (incorporated by reference, *see* § 195.3). However, operators need not comply with any part of API RP 2350 for a particular breakout tank if the operator notes in the manual required by § 195.402 why compliance with that part is not necessary for safety of the tank.

* * * * *

■ 56. In § 195.432, revise paragraphs (b) and (c) to read as follows:

§ 195.432 Inspection of in-service breakout tanks.

* * * * *

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under 195.402(c)(3). The inspection interval must not use the guidance in API Std 653, section 6.4.3 concerning risk-based inspection intervals.

(c) Each operator must inspect the physical integrity of in-service steel aboveground breakout tanks built to API Std 2510 (incorporated by reference, *see* § 195.3) according to section 6 of API Std 510 (incorporated by reference, *see* § 195.3).

* * * * *

§ 195.444 [Amended]

■ 57. Amend § 195.444, by removing the term ''API 1130'' and adding in its place, ''API RP 1130 (incorporated by reference, *see* § 195.3).''

■ 58. In § 195.452, revise paragraphs (h)(4)(i)(B), (h)(4)(iii)(D) and the introductory text of (l)(1) to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

* * * * *

(h) * * *

(4) * * *

(i) * * *

(B) A calculation of the remaining strength of the pipe shows a predicted burst pressure less than the established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, but are not limited to, ASME/ANSI B31G (incorporated by reference, *see* § 195.3) or PRCI PR–3–805 (R–STRENG) (incorporated by reference, *see* § 195.3).

* * * * *

(iii) * * *

(D) A calculation of the remaining strength of the pipe shows an operating pressure that is less than the current established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, but are not limited to, ASME/ANSI B31G or PRCI PR–3–805 (R–STRENG).

* * * * *

(l) *What records must an operator keep to demonstrate compliance*?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

* * * * *

■ 59. Section 195.565 is revised to read as follows:

§ 195.565 How do I install cathodic protection on breakout tanks?

After October 2, 2000, when you install cathodic protection under § 195.563(a) to protect the bottom of an aboveground breakout tank of more than 500 barrels (79.5m3) capacity built to API Spec 12F (incorporated by reference, *see* § 195.3), API Std 620 (incorporated by reference, *see* § 195.3), or API Std 650 (incorporated by reference, *see* § 195.3), or its predecessor Standard 12C, you must install the system in accordance with ANSI/API RP 651 (incorporated by reference, *see* § 195.3). However, installation of the system need not comply with ANSI/API RP 651 on any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain provisions of ANSI/API RP 651 is not necessary for the safety of the tank.

■ 60. In § 195.573, revise paragraph (d) to read as follows:

§ 195.573 What must I do to monitor external corrosion control?

* * * * *

(d) *Breakout tanks.* You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API RP 651 (incorporated by reference, *see* § 195.3). However, this inspection is not required if you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain operation and maintenance provisions of API RP 651 is not necessary for the safety of the tank.

■ 61. In § 195.579, revise paragraph (d) to read as follows:

§ 195.579 What must I do to mitigate internal corrosion?

* * * * *

(d) Breakout tanks. After October 2, 2000, when you install a tank bottom lining in an aboveground breakout tank built to API Spec 12F (incorporated by reference, *see* § 195.3), API Std 620 (incorporated by reference, *see* § 195.3), or API Std 650 (incorporated by reference, *see* § 195.3), or its predecessor Standard 12C, you must install the lining in accordance with API RP 652 (incorporated by reference, *see* § 195.3). However, installation of the lining need not comply with API RP 652 on any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain provisions of API RP 652 is not necessary for the safety of the tank.

■ 62. Section 195.587 is revised to read as follows:

§ 195.587 What methods are available to determine the strength of corroded pipe?

Under § 195.585, you may use the procedure in ASME/ANSI B31G (incorporated by reference, *see* § 195.3) or PRCI PR–3–805 (R–STRENG) (incorporated by reference, *see* § 195.3), to determine the strength of corroded pipe based on actual remaining wall thickness. These procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations set out in the respective procedures.

PART 199—DRUG AND ALCOHOL TESTING

■ 63. The authority citation for part 199 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; and 49 CFR 1.53.

§ 199.111 [Removed and Reserved]

■ 64. Remove and reserve § 199.111.

Issued in Washington, DC, on August 5, 2013.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2013–19348 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2013–0073]

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; Request for Comments; Correction.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) published in the **Federal Register** of July 9, 2013, a request for comments about thefts of model year (MY) 2011 passenger motor vehicles that occurred in calendar year (CY) 2011. This document corrects errors that were made in that publication. In the July 9, 2013 publication, the vehicle theft rate for CY/MY 2011 vehicles was erroneously reported to be 0.10 thefts per thousand vehicles produced. The actual theft rate for CY/MY 2011 vehicles is 0.99 thefts per thousand vehicles produced. Accordingly, Figure 1: Theft Rate Data Trend (1993–2011) has been amended to reflect the revised theft rate for CY/MY 2011. The publication also erroneously reported that the theft rate for CY/MY 2011 decreased significantly by 91.45 percent from the theft rate for CY/MY 2010 vehicles. The publication should be corrected to reflect that the theft rate for CY/MY 2011 decreased significantly by 15.38 percent from the theft rate for CY/MY 2010 vehicles (1.17 thefts per thousand vehicles). The republishing of this document in its entirety corrects those errors. This document also extends the comment period to allow 60 days from the publication of this notice.

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before October 15, 2013.

ADDRESSES: You may submit comments identified by Docket No. NHTSA–2012–0073 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–4807. Her fax number is (202) 493–0073.

SUPPLEMENTARY INFORMATION: This publication revises the **Federal Register** notice published on July 9, 2013 (78 FR 41016) which erroneously reported the theft rate for CY/MY 2011 vehicles and the percentage of its change from the theft rate for CY/MY 2010 vehicles. No other errors exist in the publication. The publication has been revised and is reprinted below in its entirety.

NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 2011 the most recent calendar year for which data are available.

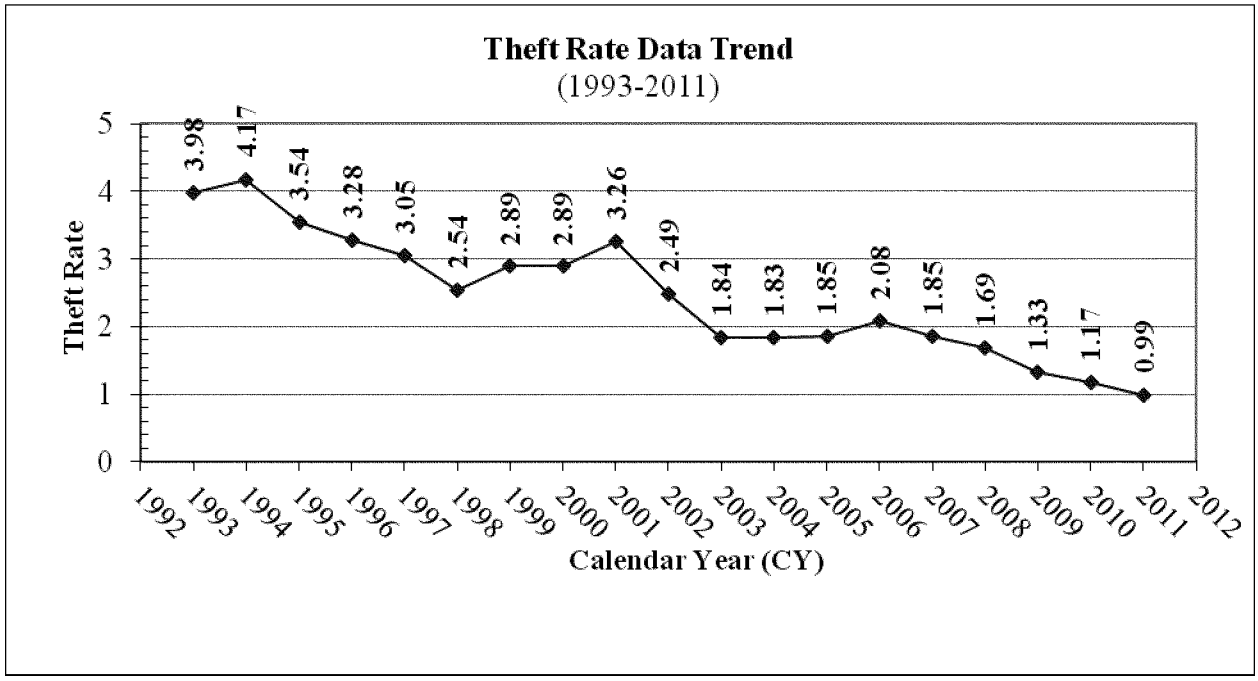
In calculating the 2011 theft rates, NHTSA followed the same procedures it has used since publication of the 1983/1984 theft rate data (50 FR 46669, November 12, 1985). The 2011 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2011 vehicles of that line stolen during calendar year 2011 by the total number of vehicles in that line manufactured for MY 2011, as reported to the Environmental Protection Agency (EPA). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from approximately 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The preliminary 2011 theft data show a significant decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2010 (For 2010 theft data, see 77 FR 58500, September 21, 2012). The preliminary

theft rate for MY 2011 passenger vehicles stolen in calendar year 2011 decreased to 0.99 thefts per thousand vehicles produced, a decrease of 15.38 percent from the rate of 1.17 thefts per thousand vehicles experienced by MY 2010 vehicles in CY 2010. For MY 2011 vehicles, out of a total of 226 vehicle lines, four lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991 (See 59 FR 12400, March 16, 1994). Of the four vehicle lines with a theft rate higher than 3.5826, four are passenger car lines, none are multipurpose passenger vehicle lines, and none are light-duty truck lines.

The agency believes that the theft rate reduction is a result of several factors, including vehicle parts marking; the increased use of standard antitheft devices and other advances in electronic technology (i.e., immobilizers) and theft prevention methods; increased and improved prosecution efforts by law enforcement organizations; and, increased public awareness which may have contributed to the overall reduction in vehicle thefts. The preliminary MY 2011 theft rate reduction is consistent with the general decreasing trend of theft rates over the past 19 years as indicated by Figure 1.

Figure 1: Theft Rate Data Trend (1993-2011)



Theft Rate Per Thousand Vehicles Produced

In Table I, NHTSA has tentatively ranked each of the MY 2011 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR part 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given in the **FOR FURTHER INFORMATION CONTACT** section, and two copies from which the purportedly confidential information has been deleted should be submitted to the docket. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

BILLING CODE 4910–59–P

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2011 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2011—continued 8

	Manufacturer	Make/model (line)	Thefts 2011	Production (Mfr's) 2011	2011 Theft rate (per 1,000 vehicles produced)
1	CHRYSLER	DODGE CHARGER	216	44,849	4.8162
2	MITSUBISHI	GALANT	71	16,728	4.2444
3	GENERAL MOTORS	CADILLAC STS	18	4,637	3.8818
4	LAMBORGHINI	GALLARDO	1	259	3.8610
5	HYUNDAI	ACCENT	106	30,231	3.5063
6	GENERAL MOTORS	CHEVROLET IMPALA	591	172,098	3.4341
7	GENERAL MOTORS	CHEVROLET HHR	230	68,454	3.3599
8	GENERAL MOTORS	CHEVROLET AVEO	142	42,367	3.3517
9	NISSAN	INFINITI FX35	21	6,711	3.1292
10	NISSAN	GT-R	1	326	3.0675
11	KIA	RIO	51	18,803	2.7123
12	PORSCHE	PANAMERA	22	8,144	2.7014
13	CHRYSLER	DODGE CHALLENGER	60	24,237	2.4756
14	NISSAN	VERSA	229	97,410	2.3509
15	FORD MOTOR CO	MERCURY GRAND MARQUIS	23	10,050	2.2886
16	NISSAN	SENTRA	213	95,341	2.2341
17	NISSAN	ALTIMA	387	179,269	2.1588
18	AUDI	AUDI A8	10	4,751	2.1048
19	MAZDA	6	52	25,456	2.0427
20	GENERAL MOTORS	CHEVROLET CAMARO	196	97,518	2.0099
21	MERCEDES-BENZ	S-CLASS	19	9,652	1.9685
22	TOYOTA	MATRIX	9	4,588	1.9616
23	GENERAL MOTORS	CHEVROLET MALIBU	400	211,025	1.8955
24	MITSUBISHI	ENDEAVOR	22	12,018	1.8306
25	CHRYSLER	DODGE AVENGER	73	41,013	1.7799
26	CHRYSLER	DODGE CALIBER	65	37,104	1.7518
27	KIA	FORTE	91	52,119	1.7460
28	FORD MOTOR CO	MUSTANG	107	61,620	1.7365
29	SAAB	9-3	3	1,750	1.7143
30	GENERAL MOTORS	CADILLAC DTS	28	17,146	1.6330
31	NISSAN	MAXIMA	101	62,836	1.6074
32	TOYOTA	CAMRY/SOLARA	781	486,288	1.6060
33	FORD MOTOR CO	TAURUS	118	76,821	1.5360
34	TOYOTA	YARIS	38	24,850	1.5292
35	AUDI	AUDI A3	10	6,734	1.4850
36	CHRYSLER	300	42	28,373	1.4803
37	FORD MOTOR CO	CROWN VICTORIA	27	19,244	1.4030
38	JAGUAR LAND ROVER	XJ	4	2,852	1.4025
39	FORD MOTOR CO	MERCURY MARINER	12	8,656	1.3863
40	FORD MOTOR CO	FOCUS	127	91,762	1.3840
41	MERCEDES-BENZ	CLS-CLASS	2	1,472	1.3587
42	HONDA	ACURA ZDX	1	737	1.3569
43	NISSAN	INFINITI G25/G37	72	53,917	1.3354

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2011 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2011—continued 9

	Manufacturer	Make/model (line)	Thefts 2011	Production (Mfr's) 2011	2011 Theft rate (per 1,000 vehicles produced)
44	MAZDA	RX-8	1	768	1.3021
45	MASERATI	GRANTURISMO	2	1,545	1.2945
46	MAZDA	3	123	97,252	1.2648
47	BENTLEY MOTORS	CONTINENTAL	1	809	1.2361
48	MERCEDES-BENZ	C-CLASS	74	60,373	1.2257
49	SUZUKI	SX4	16	13,280	1.2048
50	KIA	SEDONA VAN	20	16,717	1.1964
51	HYUNDAI	ELANTRA	119	99,916	1.1910
52	NISSAN	CUBE	17	14,294	1.1893
53	HYUNDAI	SONATA	350	301,276	1.1617
54	HONDA	CIVIC	158	136,721	1.1556
55	TOYOTA	SCION XB	23	19,909	1.1553
56	VOLVO	S40	5	4,352	1.1489
57	SUZUKI	KIZASHI	7	6,110	1.1457
58	CHRYSLER	JEEP LIBERTY	65	57,104	1.1383
59	FORD MOTOR CO	FUSION	239	211,964	1.1276
60	AUDI	AUDI A6	8	7,108	1.1255
61	CHRYSLER	200	72	64,140	1.1225
62	CHRYSLER	DODGE NITRO	40	35,638	1.1224
63	KIA	SPORTAGE	50	45,604	1.0964
64	NISSAN	INFINITI M37/M56	16	14,818	1.0798
65	BMW	7	13	12,087	1.0755
66	TOYOTA	SCION TC	20	18,637	1.0731
67	KIA	OPTIMA	69	64,320	1.0728
68	FORD MOTOR CO	LINCOLN TOWN CAR	15	14,209	1.0557
69	HONDA	CR-Z	17	16,421	1.0353
70	MERCEDES-BENZ	GLK-CLASS	21	21,303	0.9858
71	TOYOTA	COROLLA	215	223,032	0.9640
72	FORD MOTOR CO	LINCOLN MKT	4	4,274	0.9359
73	VOLVO	S80	4	4,281	0.9344
74	BMW	M3	7	7,575	0.9241
75	GENERAL MOTORS	GMC CANYON PICKUP	6	6,510	0.9217
76	TOYOTA	LEXUS GS	5	5,485	0.9116
77	FORD MOTOR CO	LINCOLN MKS	12	13,171	0.9111
78	VOLVO	C30	5	5,530	0.9042
79	JAGUAR LAND ROVER	LAND ROVER LR2	3	3,333	0.9001
80	MITSUBISHI	ECLIPSE	5	5,610	0.8913
81	GENERAL MOTORS	CHEVROLET CORVETTE	11	12,353	0.8905
82	HYUNDAI	SANTA FE	62	69,685	0.8897
83	HYUNDAI	GENERAL MOTORSSIS	26	29,398	0.8844
84	GENERAL MOTORS	BUICK LUCERNE	28	31,887	0.8781
85	SUZUKI	VITARA/GRAND VITARA	5	5,704	0.8766
86	VOLKSWAGEN	JETTA/GLI	128	148,313	0.8630
87	PORSCHE	CAYMAN	1	1,199	0.8340

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2011 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2011—continued 10

	Manufacturer	Make/model (line)	Thefts 2011	Production (Mfr's) 2011	2011 Theft rate (per 1,000 vehicles produced)
88	KIA	SOUL	80	96,970	0.8250
89	JAGUAR LAND ROVER	XK/XKR	3	3,662	0.8192
90	MERCEDES-BENZ	E-CLASS	61	74,557	0.8182
91	BMW	B7	10	12,493	0.8005
92	GENERAL MOTORS	BUICK LACROSSE/ALLURE	49	62,533	0.7836
93	FORD MOTOR CO	EDGE	105	134,206	0.7824
94	HONDA	ACURA TL	10	12,807	0.7808
95	HONDA	ACCORD	173	221,250	0.7819
96	CHRYSLER	JEEP PATRIOT	41	53,153	0.7714
97	GENERAL MOTORS	CADILLAC CTS	43	57,930	0.7423
98	VOLVO	C70	5	6,867	0.7281
99	HONDA	ACCORD CROSSTOUR	9	12,388	0.7265
101	KIA	SORENTO	121	168,443	0.7183
102	TOYOTA	LEXUS IS	22	30,811	0.7140
103	FORD MOTOR CO	FIESTA	55	77,183	0.7126
104	AUDI	AUDI R8	1	1,416	0.7062
105	HONDA	ACURA MDX	36	51,201	0.7031
106	NISSAN	PATHFINDER	22	31,439	0.6998
107	GENERAL MOTORS	BUICK REGAL	35	50,439	0.6939
108	BMW	1	9	13,131	0.6854
109	AUDI	AUDI A4/A5	29	42,875	0.6764
110	NISSAN	370Z	4	6,218	0.6433
111	FORD MOTOR CO	ESCAPE	133	207,528	0.6409
112	CHRYSLER	JEEP WRANGLER	66	103,837	0.6356
113	GENERAL MOTORS	CHEVROLET COLORADO PICKUP	16	25,283	0.6328
114	BMW	5	42	66,525	0.6313
115	MERCEDES-BENZ	SL-CLASS	2	3,188	0.6274
116	HONDA	INSIGHT	8	12,924	0.619
117	HONDA	ELEMENT	7	11,460	0.6108
118	BMW	3	100	164,060	0.6095
119	MAZDA	2	11	18,108	0.6075
120	TOYOTA	SCION XD	4	6,609	0.6052
121	JAGUAR LAND ROVER	XF	7	11,734	0.5966
122	AUDI	AUDI Q5	14	23,731	0.5900
123	CHRYSLER	JEEP COMPASS	25	42,921	0.5825
124	MAZDA	CX-9	17	29,203	0.5821
125	VOLKSWAGEN	TIGUAN	15	25,785	0.5817
126	TOYOTA	TACOMA PICKUP	71	122,520	0.5795
127	HONDA	ACURA RDX	9	15,590	0.5773
128	GENERAL MOTORS	CHEVROLET CRUZE	100	177,381	0.5638
129	MAZDA	CX-7	21	37,655	0.5577
130	BMW	Z4/M	3	5,450	0.5505
131	TOYOTA	RAV4	100	181,785	0.5501
132	GENERAL MOTORS	CADILLAC SRX	32	59,077	0.5417

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2011 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2011—continued 11

	Manufacturer	Make/model (line)	Thefts 2011	Production (Mfr's) 2011	2011 Theft rate (per 1,000 vehicles produced)
133	VOLKSWAGEN	CC	7	13,003	0.5383
134	CHRYSLER	DODGE JOURNEY	17	32,094	0.5297
135	VOLKSWAGEN	EOS	1	1,908	0.5241
136	NISSAN	ROGUE	72	138,221	0.5209
137	FORD MOTOR CO	FLEX	17	32,847	0.5176
138	AUDI	AUDI S4/S5	4	7,820	0.5115
139	PORSCHE	911	3	5,892	0.5092
140	NISSAN	FRONTIER PICKUP	23	47,081	0.4885
141	SUBARU	IMPREZA	24	49,315	0.4867
142	VOLVO	XC90	5	10,641	0.4699
143	TOYOTA	SIENNA VAN	87	187,467	0.4641
144	TOYOTA	4RUNNER	26	56,942	0.4566
145	TOYOTA	HIGHLANDER	38	87,503	0.4343
146	TOYOTA	VENZA	18	42,351	0.4250
147	SUBARU	LEGACY	21	50,878	0.4128
148	HYUNDAI	TUCSON	32	78,643	0.4069
149	FORD MOTOR CO	LINCOLN MKX	11	27,119	0.4056
150	MITSUBISHI	LANCER	11	28,316	0.3885
151	HONDA	PILOT	63	163,910	0.3844
152	NISSAN	JUKE	16	42,380	0.3775
153	NISSAN	MURANO	21	56,539	0.3714
154	HYUNDAI	AZERA	1	2,699	0.3705
155	FORD MOTOR CO	LINCOLN MKZ	9	24,752	0.3636
156	TOYOTA	FJ CRUISER	4	11,018	0.3630
157	HONDA	ACURA TSX	8	22,189	0.3605
158	GENERAL MOTORS	CHEVROLET EQUINOX	67	188,476	0.3555
159	BMW	MINI COOPER	17	48,663	0.3493
160	FORD MOTOR CO	RANGER PICKUP	34	99,043	0.3433
161	MITSUBISHI	OUTLANDER	12	35,054	0.3423
162	VOLVO	S60	1	2,951	0.3389
163	FORD MOTOR CO	MERCURY MILAN	2	6,291	0.3179
164	VOLKSWAGEN	GOLF/RABBIT/GTI	10	31,726	0.3152
165	NISSAN	QUEST VAN	5	16,012	0.3123
166	MAZDA	TRIBUTE	1	3,206	0.3119
167	HONDA	FIT	13	41,694	0.3118
168	HYUNDAI	EQUUS	1	3,305	0.3026
169	TOYOTA	AVALON	17	56,692	0.2999
170	SUBARU	OUTBACK	37	129,071	0.2867
171	MERCEDES-BENZ	SMART FORTWO	1	3,542	0.2823
172	HONDA	CR-V	70	255,339	0.2742
173	NISSAN	XTERRA	6	21,983	0.2729
174	GENERAL MOTORS	GMC TERRAIN	22	83,531	0.2634
175	BMW	X3	6	23,188	0.2588
176	HONDA	ODYSSEY VAN	25	103,550	0.2414

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2011 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2011—continued 12

	Manufacturer	Make/model (line)	Thefts 2011	Production (Mfr's) 2011	2011 Theft rate (per 1,000 vehicles produced)
177	TOYOTA	LEXUS RX	18	76,526	0.2352
178	TOYOTA	LEXUS ES	10	44,249	0.2260
179	FORD MOTOR CO	TRANSIT CONNECT VAN	6	28,091	0.2136
180	TOYOTA	LEXUS LS	2	9,861	0.2028
181	TOYOTA	LEXUS CT	2	10,216	0.1958
182	MAZDA	MX-5 MIATA	1	5,464	0.1830
183	TOYOTA	PRIUS	22	133,660	0.1646
184	NISSAN	INFINITI EX35	1	6,118	0.1635
185	SUBARU	FORESTER	11	74,829	0.1470
186	VOLVO	XC60	4	36,854	0.1085
187	HYUNDAI	VERACRUZ	1	10,861	0.0921
188	LOTUS	EVORA	0	347	0.0000
189	ASTON MARTIN	DB9	0	86	0.0000
190	ASTON MARTIN	V8 VANTAGE	0	259	0.0000
191	ASTON MARTIN	DBS	0	104	0.0000
192	ASTON MARTIN	RAPIDE	0	317	0.0000
193	AUDI	AUDI TT	0	1,434	0.0000
194	AUDI	AUDI S6	0	159	0.0000
195	BENTLEY MOTORS	MULSANNE	0	235	0.0000
196	BMW	X5	0	37,865	0.0000
197	BMW	X6	0	4,430	0.0000
198	BMW	ACTIVE HYBRID 7L	0	584	0.0000
199	ROLLS ROYCE	DROPHEAD COUPE CONVERTIBLE	0	82	0.0000
200	FERRARI	458	0	662	0.0000
201	FERRARI	599	0	247	0.0000
202	FERRARI	612 SCAGLIETTI	0	1	0.0000
203	FERRARI	CALIFORNIA	0	518	0.0000
204	GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	0	752	0.0000
205	GENERAL MOTORS	CADILLAC LIMOUSINE	0	488	0.0000
206	GENERAL MOTORS	PONTIAC G3	0	243	0.0000
207	GENERAL MOTORS	CHEVROLET VOLT	0	4,370	0.0000
208	HONDA	ACURA RL	0	1,012	0.0000
209	KIA	RONDO	0	109	0.0000
210	KIA	BORREGO	0	14	0.0000
211	LOTUS	ELISE	0	232	0.0000
212	MASERATI	QUATTROPORTE	0	635	0.0000
213	MERCEDES-BENZ	SLK-CLASS	0	1,288	0.0000
214	MERCEDES-BENZ	CL-CLASS	0	723	0.0000
215	MERCEDES-BENZ	F-CELL	0	44	0.0000
216	MERCEDES-BENZ	SLS-CLASS	0	863	0.0000
217	PORSCHE	BOXSTER	0	1,967	0.0000
218	ROLLS ROYCE	PHANTOM	0	67	0.0000
219	ROLLS ROYCE	GHOST	0	854	0.0000
220	SAAB	9-5	0	2,034	0.0000

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2011 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2011—continued 13

	Manufacturer	Make/model (line)	Thefts 2011	Production (Mfr's) 2011	2011 Theft rate (per 1,000 vehicles produced)
221	SUBARU	B9 TRIBECA	0	2,780	0.0000
222	SUZUKI	EQUATOR	0	2,160	0.0000
223	TOYOTA	LEXUS SC	0	45,155	0.0000
224	TOYOTA	LEXUS HS	0	2,356	0.0000
225	VOLVO	V50	0	865	0.0000
226	VOLVO	XC70	0	5,069	0.0000
	Theft rate per 1,000 vehicles produced =	$\left(\frac{\text{Total theft}}{\text{Total production}}\right) \times 1000$	**9,570**	**9,701,541**	**0.9864**

Issued on: August 5, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–20020 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–59–C

Notices

Federal Register
Vol. 78, No. 159
Friday, August 16, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 12, 2013.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Departmental Administration

Title: USDA PIV Request for Credential.

OMB Control Number: 0505–0022.

Summary of Collection: To obtain approval of information that must be provided by Federal contractors and other applicable individuals (including all employees and some affiliates) when applying for a USDA credential (identification card). The information is necessary to comply with the requirements outlined in Homeland Security Presidential Directive (HSPD) 12, and Federal Information Processing Standard (FIPS) 201, Personal Identity Verification (PIV) Phase I and II. USDA has completed Phase I and to comply with PIV II, USDA has implemented an automated identity proofing, registration, and issuance process consistent with the requirements outlined in FIPS 201–1.

Need and Use of the Information: Information will be collected using form AD 1197, Request for USDA Identification (ID) Badge, to issue a site badge to grant individuals short term assess to facilities. USDA has chosen to use GSA's USAccess program for HSPD–12 credentialing and identity management. The automated system includes six separate and distinct roles to ensure no one single individual can issue a credential without further validation from another authorized role holder. An automated notification process provides streamlined communication between role holder and the applicant, notifying each as to the respective steps in the process. If the information is not collected, Federal and non-Federal employees may not be permitted in some facilities and will not be allowed access to government computer systems.

Description of Respondents: Individuals or households.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 30,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–19884 Filed 8–15–13; 8:45 am]

BILLING CODE 3412–BA–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0003]

Environmental Impact Statement; Asian Longhorned Beetle Eradication Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement and proposed scope of study.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service plans to prepare an environmental impact statement to analyze the effects of a program to eradicate the Asian longhorned beetle from wherever it might occur in the United States. This notice identifies potential issues and alternatives that will be studied in the environmental impact statement and requests public comments to further delineate the scope of the alternatives and environmental impacts and issues.

DATES: We will consider all comments that we receive on or before September 16, 2013.

ADDRESSES: You may submit comments regarding the environmental impact statement by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0003-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0003, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0003* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For questions related to the Asian Longhorned Beetle Eradication Program, contact Dr. Robyn Rose, National Asian Longhorned Beetle Eradication Program Manager, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737; (301) 851–2283. For questions related to the environmental impact statement, contact Dr. Jim Warren, Environmental Protection Specialist, Environmental and Risk Analysis Services, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737; (202) 316–3216.

SUPPLEMENTARY INFORMATION:

Background

The Asian longhorned beetle (*Anoplophora glabripennis*) (ALB) is a foreign wood-boring beetle that threatens a wide variety of hardwood trees in North America. The native range of ALB includes China and Korea. ALB is believed to have been introduced into the United States from wood pallets and other wood packing material accompanying cargo shipments from Asia. ALB was first discovered in the United States in August 1996 in the Greenpoint neighborhood of Brooklyn, NY. Since then, ALB has been found in limited areas in New York and New Jersey, Illinois, Massachusetts, and most recently, in Clermont County, OH.

Areas where ALB has been found are quarantined in accordance with the regulations in 7 CFR 301.51–1 through 301.51–9. These regulations place restrictions on the movement of ALB host articles from the quarantined areas, thus helping to prevent the human-assisted spread of ALB. Within the quarantined areas, the Animal and Plant Health Inspection Service (APHIS) works to eradicate ALB, after which the quarantine can be removed.

To date, ALB has been eradicated from Chicago, IL; Hudson, Middlesex, and Union Counties, NJ; Islip, NY; and the boroughs of Manhattan and Staten Island in New York. The infested areas in Massachusetts and Ohio are active eradication areas, and APHIS is still working to determine the extent of those infestations.

Current efforts to eradicate infestations in the two locations listed above include cutting, chipping or burning, and disposing by mulching of infested trees and high-risk host trees (ALB host trees that are located within a half-mile radius of infested trees). High-risk host trees that are not cut are treated with either trunk injections or soil injections at the base of the tree using the insecticide imidacloprid.

Under the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), Federal agencies must examine the potential environmental effects of proposed Federal actions and alternatives. We are planning to prepare an environmental impact statement (EIS) to analyze the effects of a program to eradicate the Asian longhorned beetle from wherever it might occur in the United States. The EIS will examine the environmental effects of control alternatives available to the Agency, including a no action alternative. It will be used for planning and decisionmaking and to inform the public about the environmental effects of APHIS' ALB eradication activities. It will also provide an overview of APHIS activities to which we can tier site-specific analyses and environmental assessments if new ALB infestations are discovered in the United States.

We are requesting public comment to help us identify or confirm potential alternatives and environmental issues that should be examined in the EIS, as well as comments that identify other issues that should be examined in the EIS.

The EIS will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

We have identified five alternatives for further examination in the EIS:

Take no action. Under the no action alternative, no eradication efforts would be undertaken by APHIS. However, APHIS would continue to implement quarantine restrictions.

Removal of infested trees. Under this alternative, APHIS would implement quarantine restrictions and would only remove trees infested with ALB. High-risk host trees would not be removed or treated.

Full host removal. Under this alternative, APHIS would implement quarantine restrictions, remove infested host trees, and remove high-risk host trees up to a half mile from infested trees.

Insecticide treatment. Under this alternative, APHIS would implement quarantine restrictions, remove infested host trees, and treat high-risk host trees with an insecticide up to a half mile from infested trees.

Integrated approach. Under this alternative, APHIS would implement quarantine restrictions, remove infested trees, and use a combination of removal and insecticide treatments of high-risk host trees.

We have identified the following potential environmental impacts or issues for further examination in the EIS:

- Effects on wildlife, including consideration of migratory bird species and changes in native wildlife habitat and populations.
- Effects on federally listed threatened and endangered species.
- Effects on soil, air, and water quality.
- Effects on forests and trees in residential areas.
- Effects on the wood product industry and other economic impacts, including impacts on the firewood industry and on property values.
- Effects on human health and safety.
- Effects on cultural and historic resources.

We welcome comments on the proposed action, and on other alternatives and environmental impacts or issues that should be considered for further examination in the EIS.

All comments on this notice will be carefully considered in developing the final scope of the EIS. Upon completion of the draft EIS, a notice announcing its availability and an invitation to comment on it will be published in the **Federal Register**.

Done in Washington, DC, this 12th day of August 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–19957 Filed 8–15–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0053]

Importation of Fresh Oranges and Tangerines From Egypt Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to allow the importation of oranges and tangerines from Egypt. Based on the findings of a pest list and commodity import evaluation document, which we made available to the public for review and comment through a previous notice, we have concluded that the application of one or more designated phytosanitary measures will be sufficient to mitigate the pest risk associated with the importation of oranges and tangerines

from Egypt. In addition, based on the findings of a treatment evaluation document, we are advising the public that we are adding a new treatment schedule in the Plant Protection and Quarantine Treatment Manual that can be used to neutralize peach fruit fly (*Bactrocera zonata*) and Mediterranean fruit fly (*Ceratitis capitata*) in oranges and tangerines.

DATES: *Effective Date:* August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Regulatory Policy Specialist, APHIS, PPQ, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 851–2242.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–59), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

Section 319.56–4 contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section.

In accordance with that process, we published a notice in the **Federal Register** on April 18, 2013 (78 FR 23208–23209, Docket No. APHIS–2012–0053),[1] in which we announced the availability, for review and comment, of a list of pests associated with oranges and tangerines from Egypt and a commodity import evaluation document (CIED) that evaluates the risks associated with importation of fruit from Egypt into the United States.

Because of the time that had passed since importation of oranges from Egypt was suspended, APHIS prepared a pest list to identify pests of quarantine significance that could follow the pathway of importation of oranges and tangerines from Egypt. Based on the pest list, we then completed a CIED to identify phytosanitary measures that could be applied to mitigate the risks of introducing or disseminating the identified pests via the importation of oranges and tangerines from Egypt. We concluded that fresh oranges and tangerines can safely be imported into the United States from Egypt using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). These measures are:

- The oranges and tangerines must be treated in accordance with 7 CFR part 305 for *C. capitata* and *B. zonata;* and
- The oranges and tangerines must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Egypt stating that the consignment has begun or has undergone treatment for *C. capitata* and *B. zonata* in accordance with 7 CFR part 305, with an additional declaration stating that the fruit in the consignment was inspected and found free of *B. zonata.*

The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.[2] Section 305.3 sets out a process for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (a) sets out the process for adding, revising, or removing treatment schedules when there is no immediate need to make a change.

The PPQ Treatment Manual does not currently provide a treatment schedule for *B. zonata* in oranges and tangerines. Therefore, in accordance with § 305.3(a)(1), the notice we published in the **Federal Register** on April 18, 2013, announced the availability of a new cold treatment schedule T107–l, described further in the treatment evaluation document (TED), that we determined to be effective against *B. zonata* in oranges and tangerines.

In addition to *B. zonata, Ceratitis capitata* (Medfly) is the other pest of concern in oranges originating from Egypt. The new cold treatment schedule T107–l is more stringent than the treatment schedule approved for *C. capitata* in oranges and tangerines, T107–a, and therefore we have determined that the new cold treatment schedule is adequate to neutralize *C. capitata* as well as *B. zonata.*

We solicited comments on the notice, pest list, CIED, and TED for 60 days ending June 17, 2013. We received one comment by that date from a private citizen. The commenter agreed that cold treatment is an effective mitigation measure for peach fruit fly; however, the commenter expressed concern that administering treatment at the port of entry could be too late in the shipping process to avoid the spread of peach fruit flies to other fruits, further stating that any larvae in the fruit at the time of exportation could fully develop into an adult and migrate to other fruits while en route to the United States. The commenter recommended that all cold treatments be conducted prior to exportation from Egypt to prevent the spread of fruit flies during shipment.

We understand the commenter's concerns; however, the fruit is shipped in refrigerated containers, which keeps the larvae from developing further. In addition, proper containment methods described in the general cold treatment requirements in § 305.6 are also required to prevent fruit flies from spreading during shipment. Specifically, paragraphs (d)(3) and (d)(6) of that section require fruit that may be cold treated to be safeguarded to prevent cross-contamination or mixing with other infested fruit. Furthermore, only the same type of fruit in the same type of packaging may be treated together in a container and a numbered seal must be placed on the doors of the loaded container which can only be removed at the port of destination by an official authorized by APHIS. These safeguards have been used for many years during the treatment of a wide variety of commodities for fruit flies, and we have found them to be effective.

Therefore, in accordance with § 305.3, we are announcing the Administrator's decision to add the treatment described in the TED as it is an effective measure for neutralizing peach fruit fly and Medfly in oranges and tangerines. Furthermore, oranges and tangerines from Egypt may be imported into the United States subject to the requirements specified in the CIED.

The new treatment will be listed in the PPQ Treatment Manual, which is available at the Web address and mailing address in footnote 2 of this document.

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 12th day of August 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–19958 Filed 8–15–13; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, pest list, commodity import evaluation document, treatment evaluation document, and the comment we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0053.*

[2] The Treatment Manual is available on the Internet at *http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

DEPARTMENT OF AGRICULTURE

Forest Service

Humboldt County (CA) Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Humboldt Resource Advisory Committee (RAC) will meet in Eureka, California on the dates listed below. The Committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Act) (Pub. L. 112–141) and operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). The purpose of the Committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Title II of the Act. The meetings are open to the public. The purpose of the meetings are to review prior year project's progress and to review and recommend project proposals.

DATES: The meetings will be held during the month of September. All meetings begin at 5:00 p.m. (PST). Exact meeting dates are as follow:

1. September 23, 2013.
2. September 25, 2013.
3. September 30, 2013.

All Resource Advisory Committee meetings are subject to change or cancellation. Prior to attending each meeting, contact: Lynn Wright, RAC Committee Coordinator, Six Rivers National Forest, 707–441–3562, *hwright02@fs.fed.us* for the status.

ADDRESSES: The meetings will be held at the Six Rivers National Forest Office, 1330 Bayshore Way, Eureka, California.

Written comments may be submitted as described under Supplementary Information listed below. All comments, including names and addresses when provided are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest Supervisor's Office, 1330 Bayshore Way, Eureka, CA. Please call ahead to 707–442–1721 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Lynn Wright, RAC Committee Coordinator, 707–441–3562; *hwright02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Review prior year project's progress and to review and recommend project proposals. Additonal information on the Humboldt Resource Advisory Committee and meeting agenda can be found by contacting the RAC Committee Coordinator listed above. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. The agenda will include time for people to make oral statements of 3 minutes or less. Individuals wishing to make an oral statement should request in writing to be scheduled on the agenda 5 days prior to the meeting. Written comments and requests for time to present oral comments must be sent to Lynn Wright, RAC Committee Coordinator, 1330 Bayshore Way, Eureka, CA 95501; Email: *hwright02@fs.fed.us;* or Facsimile: 707–445–8677.

A summary of the meeting will be posted at *http://www.fs.usda.gov/main/srnf/home* within 21 days of the meeting.

If you are a person requiring resonable accomodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed under For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 9, 2013.

Tyrone Kelley,

Forest Supervisor.

[FR Doc. 2013–19934 Filed 8–15–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet in Crescent City, California on the dates listed below. The Committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Act) (Pub. L. 112–141) and operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). The purpose of the Committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Title II of the Act. The meetings are open to the public. The purpose of the meetings are to review prior year project's progress and to review and recommend project proposals.

DATES: The meetings will be held during the month of September beginning at 6:00 p.m. (PST). Exact meeting dates are as follow:

1. September 9, 2013
2. September 10, 2013
3. September 11, 2013

All Resource Advisory Committee meetings are subject to change or cancellation. Prior to attending each meeting, contact: Lynn Wright, RAC Committee Coordinator, Six Rivers National Forest, 707–441–3562, *hwright02@fs.fed.us* for the status.

ADDRESSES: The meetings will be held at the Del Norte County Unified School District, Redwood Room, 301 West Washington Boulevard, Crescent City, California.

Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest Supervisor's Office, 1330 Bayshore Way, Eureka, CA. Please call ahead to 707–442–1721 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Lynn Wright, RAC Committee Coordinator, 707–441–3562; *hwright02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Review prior year project's progress and to review and recommend project proposals. Additonal information on the Del Norte County Resource Advisory Committee and meeting agenda can be found by contacting the RAC Committee Coordinator listed above. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting The agenda will include time for people to make oral statements of 3 minutes or less. Individuals wishing to make an

oral statement should request in writing to be scheduled on the agenda 5 days prior to the meeting date. Written comments and requests for time to present oral comments must be sent to Lynn Wright, RAC Committee Coordinator, 1330 Bayshore Way, Eureka, CA. 95501; Email: *hwright02@fs.fed.us;* or Facsimile: 707–445–8677.

A summary of the meeting will be posted at *http://www.fs.usda.gov/main/srnf/home* within 21 days of the meeting.

If you are a person requiring resonable accomodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed under For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 9, 2013.

Tyrone Kelley,

Forest Supervisor.

[FR Doc. 2013–19933 Filed 8–15–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Energy Efficiency and Conservation Loan Program Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of a Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) for implementing its new Energy Efficiency and Conservation Loan Program. The FONSI decision document is based on impact analysis documented in a programmatic environmental assessment of the new program that was issued for 30-day public comment beginning February 26, 2013.

FOR FURTHER INFORMATION CONTACT: Deirdre M. Remley, Environmental Protection Specialist, RUS, Water and Environmental Programs, Engineering and Environmental Staff, 1400 Independence Avenue SW., Stop 1571, Washington, DC 20250–1571, Telephone: (202) 720–9640 or email: *deirdre.remley@wdc.usda.gov.* The FONSI is available online at *http://www.rurdev.usda.gov/UWP-ea.htm* or you may contact Ms. Remley for a hard copy.

SUPPLEMENTARY INFORMATION: On May 22, 2008, the U.S. Congress enacted the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) as Public Law 110–234. The 2008 Farm Bill amended Section 12 to authorize energy audits and energy efficiency measures and devices to reduce demand on electric systems. Section 6101 of the 2008 Farm Bill amended Sections 2(a) and 4 of the Rural Electrification Act (RE Act) by inserting ''efficiency and'' before ''conservation'' each place it appears. Under the authority of the ''efficiency'' provisions added to the RE Act by the 2008 Farm Bill, RUS proposes to amend 7 CFR part 1710 by adding a new subpart H entitled ''Energy Efficiency and Conservation Loan Program,'' which expands upon policies and procedures specific to loans for a new Energy Efficiency and Conservation Loan program. The program would provide loans to eligible rural utility providers (Primary Recipients) who would act as intermediaries to make Energy Efficiency (EE) loans to consumers (Ultimate Recipients) in the Primary Recipients' service territories for EE improvements at the Ultimate Recipients' premises.

This program is funded through existing authorizations and appropriations. RUS expects that $250 million per year will be dedicated to the EE program. On July 26, 2012, RUS published a proposed rulemaking in the **Federal Register** at 77 FR 43723, with a 60-day comment period, for the subpart H of 7 CFR part 1710, which would implement the EE program. The final rule will outline the procedures for providing loans to eligible Primary Recipients who will establish EE activities in their service territories and to pay reasonable administrative expenses associated with their loans under the program. The proposed rule defines an ''Eligible Borrower'' (Primary Recipient) as an electric utility that has direct or indirect responsibility for providing retail electric service to persons in a rural area.

Certain financing actions taken by RUS are Federal actions subject to compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), the Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), and RUS ''Environmental Policies and Procedures'' (7 CFR part 1794). The Programmatic Environmental Assessment (PEA) considered two Federal actions under the new EE program: (1) Loans awarded by RUS to Primary Recipients, and (2) Loans and other EE activities that the Primary Recipient executes for the benefit of Ultimate Recipients.

Based on its analysis in the PEA for the EE program, RUS has concluded that agency actions implementing the new program would have no significant impact to the quality of the human environment. Therefore, RUS will not prepare an environmental impact statement for its rulemaking adding subpart H to 7 CFR part 1710 nor its actions related to implementing the EE program. The FONSI will be available on RUS's Web site at *http://www.rurdev.usda.gov/UWP-ea.htm.*

Dated: July 2, 2013.

Nivin Elgohary,

Assistant Administrator, Electric Programs, USDA, Rural Utilities Service.

[FR Doc. 2013–19954 Filed 8–15–13; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Basin Electric Power Cooperative, Inc.: Notice of Intent To Prepare a Supplemental Draft Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Intent To Prepare a Supplemental Draft Environmental Impact Statement.

SUMMARY: The Rural Utilities Service (RUS), an agency within the U.S. Department of Agriculture (USDA), intends to prepare a supplemental draft environmental impact statement (SDEIS) for Basin Electric Power Cooperative's (Basin Electric) proposed Antelope Valley Station (AVS) to Neset 345-kV Transmission Project (Project) in North Dakota. RUS is issuing this Notice of Intent (NOI) to inform the public and interested parties about a change in the proposed Project and invite the public to comment on the scope, proposed action, and other issues to be addressed in the SDEIS.

RUS made the decision to prepare an SDEIS for the AVS Project to evaluate significant project changes. These changes are due to an increase in the electric load forecast for western North Dakota which is changing the scope of the project. To accommodate this change, the SDEIS will evaluate a new alternative for the transmission line.

The SDEIS will address the construction, operation, and maintenance of Basin Electric's proposed Project. The Project includes construction, operation and maintenance of approximately 275

miles of new 345-kV single pole transmission line (approximately 85 miles more than the project identified in the Draft Environmental Impact Statement (EIS)), 230-kV single pole transmission line and double circuit 345/115-kV transmission lines, 5 new substations, modifications to 4 existing substations, maintenance access roads, temporary construction roads, river crossings, temporary construction staging sites, and other facilities to be described in the SDEIS. Basin Electric's proposed Project would be located in portions of Dunn, McKenzie, Mercer, Mountrail, and Williams counties in western North Dakota.

Portions of Basin Electric's proposed Project may affect floodplains and wetlands. This NOI also serves as a notice of proposed floodplain or wetland action. RUS will hold public hearing meetings to share information and receive comments on the SDEIS.

FOR FURTHER INFORMATION CONTACT: For information on the proposed Project, the SDEIS process, and RUS financing, contact Mr. Dennis Rankin, Engineering and Environmental Staff, Rural Utilities Service, 1400 Independence Avenue SW., Stop 1571, Washington, DC 20250–1571, *telephone:* (202) 720–1953, or *email: dennis.rankin@wdc.usda.gov*. Parties wishing to be placed on the Project mailing list for future information and to receive copies of the SDEIS and the Final EIS when available should also contact Mr. Rankin.

SUPPLEMENTARY INFORMATION: RUS is authorized to make loans and loan guarantees that finance the construction of electric distribution, transmission, and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, as well as demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. Based on an interconnection with the Western Area Power Administration's (Western) transmission system, Western has in accordance with 40 CFR 1501.6, requested to serve as a cooperating agency for the environmental review of the proposed Project.

Basin Electric is a regional wholesale electric generation and transmission cooperative owned and controlled by its member cooperatives. Basin Electric serves approximately 2.5 million customers covering 430,000 square miles in portions of nine states, including Colorado, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming.

Project Description: Basin Electric has identified the need for additional electric transmission capacity in northwestern North Dakota as a result of increased demand and to meet reliability and system stability requirements for the region. Investigations and analyses conducted for the overall power delivery systems found that without improvements, the flow of power along existing lines may result in local line overloads, especially in the vicinity of Williston, North Dakota.

To resolve these issues, Basin Electric is proposing to construct, own and operate a new 345-kV transmission line and associated supporting infrastructure. The entire Project will consist of constructing approximately 275 miles of new single circuit 345-kV (approximately 85 miles more than the project identified in the Draft EIS), 230-kV and double circuit 345/115-kV transmission lines, the construction of 5 new substations, modifications to 4 existing substations, maintenance access roads, temporary construction roads, river crossings, temporary construction staging sites, and other facilities. The Project would connect to the Integrated System at several locations, including Western's Williston Substation. The proposed Project would be located in portions of Dunn, McKenzie, Mercer, Mountrail, and Williams counties in western North Dakota.

Basin Electric has requested financial assistance for the proposed Project from RUS. Completing the EIS is one of RUS's requirements in processing Basin Electric's application, along with other technical and financial considerations.

In accordance with 40 CFR 1501.5(b) on the Council of Environmental Quality's Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act, RUS will serve as the lead agency in the preparation of the EIS.

The proposed Project is subject to the jurisdiction of the North Dakota Public Service Commission (NDPSC), which has regulatory authority for siting electrical transmission facilities within the State. Basin Electric will submit applications for NDPSC Transmission Corridor and Route Permits. The NDPSC Permits would authorize Basin Electric to construct the proposed Project under North Dakota rules and regulations.

RUS intends to prepare a SDEIS and Final EIS to analyze the impacts of its respective federal actions and the proposed Project in accordance with the National Environmental Policy Act (NEPA), as amended, Council on Environmental Quality (CEQ) Regulation for Implementing the Procedural Provisions of the NEPA (40 CFR parts 1500–1508), DOE NEPA Implementing Procedures (10 CFR part 1021), and RUS Environmental Policies and Procedures (7 CFR part 1794). RUS has already produced a Draft EIS which was released to the public on December 7, 2012 and can be found on the World Wide Web at *http://www.rurdev.usda.gov/UWP-AVS-Neset.html.*

Because the proposed Project may involve action in floodplains or wetlands, this NOI also serves as a notice of proposed floodplain or wetland action. The SDEIS will include a floodplain/wetland assessment and, if required, a floodplain/wetland statement of findings will be issued with the Final EIS.

Agency Responsibilities: RUS is serving as the lead Federal agency, as defined at 40 CFR 1501.5, for preparation of the SDEIS. Western Area Power Administration and the U.S. Forest Service are participating as cooperating agencies and will be issuing decisions relevant to the project under separate authorities.

Public Participation: Public participation and full disclosure are planned for the entire EIS process. The EIS process has included a scoping comment period to solicit comments from interested parties; publication of a DEIS and public hearing and comment period; consultation and involvement with appropriate Federal, State, local, and tribal governmental agencies. In addition, public review and hearings on the SDEIS will be scheduled on the fall followed by publication of a final EIS; and publication of a Record of Decision. Expected EIS completion date is March 2014. Additional informal public meetings may be held in the proposed Project areas, if public interest and issues indicate a need. If additional public meetings are determined to be necessary public notices will be published as appropriate.

RUS will hold open-house public hearing meetings once the SDEIS is published. The times and locations of these meetings will be well-advertised in local media outlets a minimum of 15 days prior to the time of the meetings. Attendees will be welcome to come and go at their convenience and provide written or oral comments on the Project. In addition, attendees may provide written comments by letter, fax, email.

Dated: July 18, 2013.

Mark S. Plank,

Director, Engineering and Environmental Staff, Rural Utilities Service.

[FR Doc. 2013–19956 Filed 8–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–405–803]

Purified Carboxymethylcellulose From Finland; Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from Aqualon Company, a division of Hercules Inc., (Petitioner) and respondents CP Kelco Oy and CP Kelco U.S., Inc. (collectively, CP Kelco), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from Finland. The period of review (POR) is July 1, 2011, through June 30, 2012.

We preliminarily find that CP Kelco made sales at prices below normal value (NV) during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on differences between the export price (EP) or constructed export price (CEP) and NV. We invite interested parties to comment on these preliminary results.

DATES: *Effective Date:* August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1121 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order is all purified carboxymethylcellulose (CMC), sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. For a full description of the scope of the order, *see* the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Purified Carboxymethylcellulose from Finland'' (Preliminary Decision Memorandum), which is dated concurrently with, and is hereby incorporated by reference.[1]

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). EP is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. In accordance with section 773(b) of the Act, we disregarded certain of CP Kelco's sales in the home market that were made at below-cost prices. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following dumping margin for the period July 1, 2011, through June 30, 2012.

Exporter/manufacturer	Margin (percent)
CP Kelco Oy	3.40

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[2] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.[3] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4] Case and rebuttal briefs should be filed using IA Access.[5]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically via IA ACCESS. An electronically filed document must be received successfully in its entirety by the Departments electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[6]

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, within 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If CP Kelco's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). If CP Kelco's weighted-average dumping margin is zero or *de minimis* in the final

[1] A list of the topics discussed in the Preliminary Decision Memorandum appears in Appendix I of this notice.

[2] *See* 19 CFR 351.224(b).

[3] *See* 19 CFR 351.309(d).

[4] *See* 19 CFR 351.309(c)(2) and (d)(2).

[5] *See* 19 CFR 351.303.

[6] *See* 19 CFR 351.310(c).

results of review, or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to dumping margins.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[7] This clarification will apply to entries of subject merchandise during the POR produced by CP Kelco for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of CMC from Finland entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for CP Kelco Oy will be the rate established in the final results of this administrative review except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.65 percent, the all-others rate established in the less-than-fair-value investigation.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

[7] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden,* 70 FR 39734 (July 11, 2005).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 1, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2013–19730 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–841]

Polyethylene Terephthalate Film, Sheet and Strip From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 16, 2013.

SUMMARY: In response to requests from respondent Terphane Ltda. and from DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. (collectively, Petitioners), the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet and strip (PET film) from Brazil. The administrative review covers Terphane Ltda. and Terphane Inc. (collectively, Terphane) for the period of review (POR) November 1, 2011, through October 31, 2012. As we currently have no evidence of any reviewable entries, shipments or sales of subject PET film by Terphane during the POR, we are issuing a preliminary no shipment determination.[1]

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–1121 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by this order are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States.[2]

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://iaaccess.trade.gov.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of No Shipments

Based on information Terphane submitted after the initiation of this administrative review and information collected from U.S. Customs and Border

[1] Terphane is the only respondent in this review.

[2] For a full description of the scope of the order, *see* ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet and Strip from Brazil: 2011–2012,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

Protection (CBP), the Department has preliminarily determined that the record evidence indicates that Terphane currently had no reviewable entries during the POR. In addition, the Department finds that it is not appropriate to rescind the review with respect to Terphane but, rather, to complete the review with respect to them and issue appropriate instructions to CBP based on the final results of this review, as is our recent past practice.[3]

Assessment Rates

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which these companies did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see* Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003). We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Comments

Interested parties are invited to comment on these preliminary results and submit written arguments or case briefs within 30 days after the date of publication of this notice, unless otherwise notified by the Department.[4] Parties are reminded that written comments or case briefs are not the place for submitting new factual material. Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later.[5] Parties who submit case or rebuttal briefs are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party who wishes to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days after the day of publication of this notice. A request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.[6] Issues raised in the hearing will be limited to those raised in case briefs. The Department will issue the final results of administrative review, including the results of our analysis of issues raised in any briefs, within 90 days after the date on which the preliminary results were issued, unless the deadline for the final results is extended.[7]

Notification to Importers

This notice serves as a preliminary reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(f).

Dated: August 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–19732 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See, e.g., Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke the Order (in Part); 2011–2012,* 78 FR 15686 (March 12, 2013) and the accompanying Decision Memorandum at 7 to 8.

[4] *See* 19 CFR 351.309(c)(ii).

[5] *See* 19 CFR 351.309(d).

[6] *See* 19 CFR 351.310(c).

[7] *See* 19 CFR 351.214(i).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Implementation of New Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice; implementation of competitive research program.

SUMMARY: NOAA announces the implementation, under the authority of the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) of 2012, of a new competitive science program to ensure the long-term sustainability of the Gulf of Mexico ecosystem and the communities that depend on it.

FOR FURTHER INFORMATION CONTACT: Russ Beard, Acting Program Director, Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program, National Centers for Coastal Ocean Science, NOS.

Email: *NOAARestoreScience@noaa.gov.*

Phone: 228.688.2936.

Mailing Address: 1021 Balch Boulevard, Suite 1003, Stennis Space Center, MS 39529.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) of 2012 authorized the establishment of a science, observation, monitoring and technology program on ecosystem restoration (RESTORE Act Science Program). Under Section 1604 of the RESTORE Act, the National Oceanic and Atmospheric Administration (NOAA) has been designated with responsibilities to establish the Program which is to be funded by 2.5% of the Gulf Coast Ecosystem Restoration Trust Fund plus twenty-five percent of the Trust Fund accrued interest.

II. Program Administration

The Program will be housed within the National Ocean Service's National Center for Coastal Ocean Science (NCCOS). NCCOS's experience running competitive science programs focused on pressing coastal and ocean issues, its experience working in the Gulf of Mexico, and its demonstrated ability to transfer research results to resource managers makes it a logical home for the Program. In addition, NOAA established an Executive Oversight Board consisting of senior executives representing each of the NOAA Line Offices, as well as a senior executive from the US Fish and Wildlife Service, to oversee continuing development and implementation of the program, provide strategic and programmatic guidance to a Program Support Team and eventual approval of the Science and Engagement Plans developed by the Support Team. The Program and the Executive Oversight Board will consult with the RESTORE Act Council, science advisory bodies that may be established pursuant to the Act, and other entities as deemed appropriate by NOAA or the Department of Commerce.

III. Guiding Principles, Goals and Focus Areas

The RESTORE Act Science Program, including development of a Science Plan, will be guided by a suite of principles, including:

1. Requiring an ecosystem approach, considering the entirety and connectivity of the system;

2. Integrating and building on existing research, monitoring, and modeling efforts and plans (e.g., NRDA science, Gulf of Mexico States' Centers of Excellence, Gulf of Mexico Research Initiative, Gulf Coast Ecosystem Restoration Strategy and associated Science Needs Assessment);

3. Leveraging partnerships established among federal, state, academics, and NGOs, and develop new partnerships as appropriate;

4. Working within a management and policy framework developed with other entities in the Gulf, including USFWS, the Commission, and FMC; and

5. Designing a scalable and modular approach that adapts to funding availability, defines the unique roles and responsibilities of NOAA and avoids duplication with federal, state, academic, and NGO activities or NRDA science efforts.

Numerous documents have been developed in recent years that identify science needs in the Gulf of Mexico. Many of these documents were produced with extensive stakeholder input and in consultation with resource managers throughout the Gulf states. In development of the Goals for this program these documents were referenced to ensure high priority and recurring needs were captured. The DRAFT goals presented here were constructed to be responsive to Section 1604 of the Act and consistent with science needs identified previously in the region. The RESTORE Act Science Program will enable the collection and dissemination of scientific information to better inform decision making related to the following DRAFT goals:

1. Support Healthy, Diverse and Resilient Coastal Habitats

2. Support Healthy, Diverse and Sustainable Living Coastal and Marine Resources

3. Support Sustainably Managed Fisheries

4. Support Healthy and Well-managed Offshore Environments

5. Support Healthy, Sustainable, and Resilient Coastal Communities able to adapt to a changing environment.

Focusing the activities supported by this program will help ensure that the science, observation, monitoring, and technology advancement are coordinated, complement existing and future science efforts supported and implemented collaboratively, and address in an integrated and holistic manner the critical knowledge needed for Gulf of Mexico ecosystem restoration and management. The Focus areas do not define specific science needs, but rather encompass a suite of approaches of scientific study which, when taken together, will meet the desired outcome of improved holistic understanding of the Gulf of Mexico ecosystem. The focus areas are:

- Periodic ''State of health'' assessments for the Gulf, incorporating environmental, socio-economic, and human well-being information
- Integrated analysis and synthesis of data—Synthesis and analysis of existing and new data to understand interconnections, inform ecosystem perspective, and produce policy-relevant information
- Ecosystem processes, functioning and connectivity through integrative field/laboratory efforts to provide foundational information to support restoration planning and implementation and fisheries science
- Holistic approaches to observing and monitoring that encompass the next generation of observing and monitoring technologies, including those for fisheries and other natural resources, and data integration tools focused on the observing needs in the Gulf of Mexico

IV. Program Consultation and Coordination

Section 1604 of the RESTORE Act specifies that NOAA shall coordinate with the US Fish and Wildlife Service, and with ''other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the Centers of Excellence.'' The Act also requires that NOAA consult with the Gulf of Mexico Fishery Management Council and Gulf States Marine Fisheries Commission ''in carrying out the program''. Although such a provision is not included in the guidance to the Centers of Excellence under Section 1605, or in the criminal settlement agreements funding science programs for the National Academy of Sciences, these and other groups also have acknowledged the need for coordination.

The USFWS was an active partner during the program development process and they continue to engage fully on the Executive Oversight Board and on engagement and science planning working groups. During the program development, NOAA reached out to both the Regional Gulf of Mexico Fishery Management Council and the Gulf States Marine Fisheries Commission for their input and feedback to the process. NOAA will continue direct consultation with both the Commission and the Council as it develops and executes the program.

Additionally, several other groups have or are anticipated to receive funding as a result of the Deepwater Horizon oil spill. NOAA believes that it is imperative that all recipients of settlement funds derived from the spill money coordinate science activities to maximize the benefit to the environment and people of the Gulf of Mexico. As the RESTORE Act Science Program is implemented, NOAA will continue to actively engage partners, stakeholders and the public.

V. Next Steps

Development of the Program will be guided by application of the language of the Act to the science needs of the region as described by resource managers, researchers, residents, and other stakeholders. Given that the amount of funds to be made available and the science priorities of other programs established under the Act have yet to be defined, NOAA envisions that its science investments will evolve over time, adapting to changing information and knowledge. As noted previously, considerable work to identify science needs has been conducted in the region and provides an opportune starting point to frame an investment strategy. With additional engagement of partners in the region, NOAA will develop a science plan that seeks to achieve a holistic understanding of the Gulf of Mexico ecosystem that will contribute significantly to the science needed for the long-term sustainability of the Gulf of Mexico ecosystem, including its fisheries, and help inform restoration and management efforts.

NOAA is following a series of steps to implement the Program including:

- Conducting a review and assessment of science needs to support sustainability of the Gulf of Mexico ecosystem that have been determined previously;
- Developing a Science Plan framework that describes the program and lists a set of draft Goals for consideration to assist engagement with partners and stakeholders;
- Engaging partners to identify and prioritize ecosystem and management science requirements and gaps, including but not limited to coordination with other Trust Fund recipients;

• Identifying strategic early investments to assist the integration and synthesis of science priorities and to address known priority gaps;

• Conducting competitive processes for issuing awards for addressing the science needs;

• Continuing refinement of Science plan in coordination with partners through the life of the Program.

NOAA anticipates being able to issue a focused Federal Funding Opportunity (FFO)sometime in Fall/Winter, 2013, contingent upon the regulations governing the Trust Fund being finalized. The FFO will be targeted towards focused areas of investment derived from reviews of existing plans and engagement efforts with Gulf stakeholders being conducted this summer. This FFO will be announced through the **Federal Register** and *grants.gov*. Future FFOs will be announced on *grants.gov.*

VI. Additional Information

Additional information on the Program, the draft science framework, and engagement opportunities can be found on the Program Web site: *restoreactscienceprogram.noaa.gov.*

Dated: August 12, 2013.

Mary C. Erickson,

Director, National Centers for Coastal Ocean Science, National Ocean Service.

[FR Doc. 2013–19946 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 130122061–3061–01]

RIN 0648–XC463

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Whale Shark as Threatened or Endangered Under the Endangered Species Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of 90-day petition finding.

SUMMARY: We (NMFS) announce a 90-day finding on a petition to list the whale shark (*Rhincodon typus*) as threatened or endangered under the Endangered Species Act (ESA). We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

ADDRESSES: Copies of the petition and related materials are available upon request from the Director, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910, or online at: *http://www.nmfs.noaa.gov/pr/species/negative.htm.*

FOR FURTHER INFORMATION CONTACT: Lisa Manning, Office of Protected Resources, 301–427–8466.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2012, we received a petition from the WildEarth Guardians to list the whale shark (*Rhincodon typus*) as threatened or endangered under the ESA and to designate critical habitat under the ESA. Copies of this petition are available from us (see **ADDRESSES**).

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a ''may be warranted'' finding at the 90-day stage does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a ''species,'' which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA–U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (''DPS Policy''; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, the determination of whether a species is threatened or endangered shall be based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates

the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-governmental organizations, such as the International Union on the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do ''not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act'' because NatureServe assessments ''have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide'' (*http://www.natureserve.org/prodServices/statusAssessment.jsp*). Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Whale Shark Species Description

The whale shark is the world's largest fish and is one of three large species of filter-feeding sharks; the others being the basking shark (*Cetorhinus maximus*) and the megamouth (*Megachasma pelagios*) shark. Among the whale shark's distinctive features are its large, first dorsal fin; large pectoral fins; and an extremely large, transverse mouth near the front end of the head. Also distinctive is the checkerboard pattern of white or yellowish spots and horizontal and vertical stripes over much of its body. Maximum size is not known. The largest reported whale shark was 20 meters (m) total length (TL), but reports of specimens longer than 12 m are uncommon in the literature (Compagno, 2002; Rowat and Brooks, 2012). Longevity is also unknown but has been tentatively suggested to be 60–100 years (Pauly *et al.,* 2000; as cited in Norman, 2005).

Whale sharks feed on a variety of planktonic and nektonic organisms (e.g., copepods, sardines, anchovies, squid) and gametes. Stable-isotope analysis of whale shark muscle tissue suggests that as whale sharks grow, consumption of small fish and larger zooplankton of higher trophic levels increases (Borrell *et al.,* 2010). Seasonal feeding aggregations of whale sharks occur in many locations throughout the range (e.g., Belize, Tanzania, Seychelles, Western Australia) in association with localized increases in prey availability such as during fish, crab or coral spawning events or plankton blooms (Colman, 1997; Roberts and Graham, 2003; Sequeira *et al.,* 2013). Whale sharks are fairly versatile in terms of their feeding methods, which can be one of multiple forms: Ram, or active, filter feeding at the water surface; stationary suction feeding; and passive, sub-surface filter feeding (Motta *et al.,* 2010).

Growth and reproduction are poorly described for this species. Basic characteristics, like gestation length, age at maturity, and frequency of reproduction, are not yet known. Growth rates calculated for captive whale sharks range from about 22 to 240 centimeters (cm) per year and vary with initial size and sex of the shark (Rowat and Brooks, 2012). Growth rate estimates for wild whale sharks are highly variable (e.g., 3–82 cm per year) and are confounded by large associated errors (Rowat and Brooks, 2012). Male whale sharks are thought to reach sexual maturity around 7–9 m TL, and females are thought to reach maturity at about 9 m TL or larger (Ramírez-Macías *et al.,* 2012; Rowat and Brooks, 2012). Using assumed growth rates and maximum lengths, the age at maturity has been roughly estimated at 8.9 years and 21.4 years by different authors (reviewed in Rowat and Brooks, 2012). Whale sharks are ovoviviparous—meaning the egg cases hatch in utero, and females give birth to live young. Whale sharks are also considered to be highly fecund based on the capture of a pregnant female off the coast of Taiwan in 1995 that contained over 300 embryos, which greatly exceeds the number of embryos reported for any other shark species (Joung *et al.,* 1996). Observations of pregnant or large females are rare, but they have been reported to occur in the southern Sea of Cortez, Mexico; the Galapagos; and the Philippines (Rowat and Brooks, 2012). A total of only 19 small juveniles (less than 1.5 m TL) have been reported in the literature, and available data suggest that size at birth may vary considerably (Rowat and Brooks, 2012). Small, free-living whale sharks (55 to 59 cm TL) have been found off tropical West Africa in the East-Central Atlantic and near Central America in the eastern Pacific, near continental waters and in the open ocean far from land (Wolfson, 1983;

Kukuyev, 1996; as cited in Compagno, 2002), suggesting that young may be born in the ocean and that pupping and possibly nursery habitat exist there (Compagno, 2002).

Whale sharks are circumglobal and occur in all tropical and warm-temperate seas (Rowat and Brooks, 2012). Although generally occurring far offshore, whale sharks are also found in more shallow, coastal waters. Whale sharks are typically encountered near the surface and are characterized as epipelagic, but tagging studies reveal they can also dive to mesopelagic (200–1,000 m) and even bathypelagic depths (>1,000 m; Rowat and Brooks, 2012). Satellite telemetry data show that while some whale sharks may remain for relatively long periods of time within a given oceanic region, they are also highly migratory and capable of traveling 1,000s of kilometers (km) in several months (Sequeira *et al.,* 2013). Mean movement distances of whale sharks tagged in two separate studies, one conducted in the Sea of Cortez (Mexico) and one in the Sulu Sea (Malaysia), were very similar—24 km and 24.7 km per day, respectively (Eckert *et al.,* 2002; Eckert and Stewart, 2001).

Specific habitat requirements of whale sharks are not yet fully understood; however, efforts have been made to elucidate what environmental features drive whale shark migrations and habitat preferences. Episodic aggregations of whale sharks in warm, coastal habitats have been mainly linked to food blooms, sea surface temperature, and currents (Coleman, 1997; Sequeira *et al.,* 2013). Wilson *et al.* (2001) examined the seasonal feeding aggregations at Ningaloo Reef, Western Australia, and found evidence suggesting a linkage between whale shark abundance and oceanographic processes, with greater abundances of whale sharks associated with La Niña years. In terms of pelagic habitats, modeling efforts indicate that sea surface temperature is a main predictor of whale shark distribution in the open ocean (Sequeira *et al.,* 2011). In one study, which modeled 1,185 whale shark sightings from a 17- year time series, 90 percent of the whale shark sightings occurred within the fairly narrow temperature range of 26.5 to 30 degrees Celsius (Sequeira *et al.,* 2011). Other factors such as distance to continental shelf edge, water depth, and chlorophyll *a,* have also been shown to have some correlation with whale sharks distribution (Sequeira *et al.,* 2011; McKinney *et al.,* 2012). Interestingly, surface currents do not appear to have a significant influence on migration. Sleeman *et al.* (2010) found that whale sharks tagged at Ningaloo Reef traveled actively and independently of surface currents despite the added energetic costs of doing so.

Analysis of the Petition

The petition clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved. The petition also contains a narrative justification for the recommended measure and provides information on the species' taxonomy, geographic distribution and threats. Limited information is provided on past and present numbers, population status and trends. The petition is accompanied by internet articles, emails, Web sites, unpublished reports, **Federal Register** notices, and published literature. A synopsis of our analysis of the information provided in the petition and readily available in our files is provided below.

Distinct Population Segments

The petition requests that we list whale sharks throughout their range or list any DPSs that we may find to exist. To meet the definition of a DPS, a population must be both discrete from other populations of the species and significant to the species as a whole (61 FR 4722; February 7, 1996). The petition does not suggest possible delineations of particular populations or provide information to identify particular DPSs of whale sharks. The petition does note, however: ''While it is entirely possible that there are subpopulations of whale sharks within each ocean or region, the relative scarcity of information on the species and its highly migratory nature make it difficult to know for sure whether such subpopulations exist.''

Information in our files indicates there is low genetic differentiation among geographic whale shark populations and a history of gene flow among populations. One study, using mitochondrial DNA, found that the most common haplotype is globally distributed and that differentiation among the three major ocean basins is low, especially relative to other globally distributed shark species (Castro *et al.,* 2007). A second study, using nuclear DNA, also found low differentiation among whale sharks from geographically distinct populations (Schmidt *et al.,* 2009). Data from both studies indicate significant gene flow among Indian and Pacific Ocean populations and a lower level of interaction with Atlantic populations (Castro *et al.,* 2007; Schmidt *et al.,* 2009). Satellite tracking data show that whale sharks make frequent, regional and at least occasional, longer-range migrations, providing some behavioral evidence to support the genetic data (reviewed in Sequeira *et al.,* 2013). A recent review article synthesizes the existing genetic, telemetry and sightings data and presents a conceptual model of whale sharks as a single, global meta-population (Sequeira *et al.,* 2013). These authors suggest that whale sharks can move among the three major ocean basins every 2–4 years, thereby connecting populations on a generational time-scale (Sequeira *et al.,* 2013). Based on this information, we conclude that delineation of discrete populations and evaluation of the significance of those populations are not currently possible. Thus, in evaluating the petition, we considered the taxonomic species.

Whale Shark Status and Trends

The petition states that population size is unknown for whale sharks but points to its ''vulnerable'' status on the IUCN (International Union for Conservation of Nature and Natural Resources) Red List and its Appendix II listing under CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) as evidence of an imperiled status. The petition asserts that a global decline of whale sharks has been caused mainly by commercial fishing—both direct harvest and bycatch—and points to the declines in whale shark landings that occurred during the late 1990's in Taiwan and the Philippines. Additional information on historical or present abundance or population trends is not presented in the petition.

Both Taiwan and the Philippines have closed their whale shark fisheries, as have multiple, other range states (Rowat and Brooks, 2012). The threat of commercial fishing is discussed in more detail below (see ''Overutilization'').

According to Article II of CITES, species listed on Appendix II are those that are ''not necessarily now threatened with extinction but may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival.'' The United States proposed to add whale sharks to Appendix II in 2000, and the species was ultimately added to that Appendix in 2003. Based on the CITES definitions and standards for listing species on Appendix II, neither the proposal to add whale sharks to Appendix II in 2000, nor their actual listing on Appendix II in 2003, are themselves inherent indications that whale sharks may now

warrant threatened or endangered status under the ESA. Species classifications under CITES and the ESA are not equivalent, and criteria used to evaluate species are not the same. Thus, we instead consider the available information on the threat of international trade and, more specifically, commercial fishing. See ''Threats to Whale Sharks'' section below for further discussion.

The last IUCN assessment of whale sharks was completed in 2005, and since then several estimates of global and subpopulation abundance have been made. Whale sharks are being studied in various locations across the range, and identification of larger aggregations of animals in previously unknown locations suggests that global abundance may be higher than previously thought (Schmidt *et al.,* 2009). Perhaps most heavily studied have been the whale sharks of Ningaloo Reef, Western Australia, where the local population has been estimated at approximately 300–500 individuals (95 percent confidence interval (CI)) using closed population models and at 320–440 (95 percent CI) using open population models (Meekan *et al,* 2006). Using mark-recapture techniques and an open-population model, Ramírez-Macías *et al.* (2012) estimated 521–802 (95 percent CI) whale sharks in the aggregation near Holbox Island, Mexico. These and other studies of seasonal whale shark aggregations provide useful information about particular aggregations, but the sample populations typically consist primarily of immature males and few females and adults, and thus are not likely to be representative of the wider population (Rowat and Brooks, 2012). Several authors have discussed how, given these skewed sample populations, key data requirement of the population models are not met, making strong inferences about population size difficult (e.g., Graham and Roberts, 2007; Riley *et al.,* 2010).

However, in addition to the studies of individual whale shark aggregations, genetic data have been used to estimate the effective population size of whale sharks, meaning the number of individuals contributing offspring to the next generation. Using mitochondrial DNA from whale shark samples collected from aggregation areas across the entire species' range, Castro *et al.* (2007) calculated an estimated effective population size of 238,000 to 476,000 adults. Using microsatellite DNA samples from across the species' range, Schmidt *et al.* (2009) estimated an effective population size of 103,572, with a standard error range of 27,401–179,794 animals. While these values are only rough estimates of the actual effective population size, the relatively large estimates indicate that population sizes may be much larger than previously assumed (Castro *et al.,* 2007). It is also clear that adult whale shark habitat consists of more than just the surface waters occupied by transient feeding aggregations, where nearly all of the observations of living whale sharks have occurred (Castro *et al.,* 2007).

In conclusion, while data are still limited with respect to population size and trends, we find the petition insufficient in terms of presenting substantial information on whale shark abundance, trends or status to indicate the petitioned action may be warranted.

Threats to Whale Sharks

The petition lists four main categories of threats to whale sharks: Habitat destruction, overutilization, inadequacy of existing regulatory mechanisms, and other natural and manmade factors. We discuss each of these below.

Habitat Destruction

The petition lists several causes of current and threatened destruction of whale shark habitat: Human population growth, coastal pollution and ''dead zones,'' climate change, the Deepwater Horizon oil spill, and oil drilling in the Gulf of Mexico. The petition focuses on the Gulf of Mexico as ''critical habitat'' and states that the large dead zone in particular has ''made a large swath of the Gulf [of Mexico] uninhabitable for the species.''

We agree with the petitioner that human population growth, coastal pollution, and climate change have various, negative, environmental consequences. Mechanisms presented in the petition to explain how these threats are impacting whale shark habitats include the increasing number and size of dead zones, loss of fish species, and coral bleaching. Both fish and coral species are affected to varying degrees around the world by the inter-related threats of human populations, pollution and climate change. Dead zones, or areas of very low levels of dissolved oxygen (2–3 parts per million), occur throughout the world, typically in estuaries and coastal areas, and cause mortality of organisms at or near the bottom. These threats and mechanisms, however, are general in nature, and neither the petition nor the available information provides clear linkages to whale sharks or whale shark habitat use. Whale sharks occur in oceanic and coastal waters, are highly mobile, and consume a variety of prey species. Neither the petition nor the information in our files provides evidence to indicate whale sharks are experiencing prey-limitations, or that dead zones and loss of coral reef habitat are limiting the distribution or range of this species. For the specific example of the Gulf of Mexico, sighting records and modeling efforts indicate that seasonal whale shark feeding areas exist in the northern Gulf of Mexico, primarily along the productive continental shelf edge; and that the spatial distribution of suitable whale shark habitat is dynamic, meaning it can vary from year to year (McKinney *et al.,* 2012). For the most part, this habitat does not overlap with the Gulf of Mexico dead zone, which occurs along the coast, on the continental shelf, typically from Texas to Louisiana, and can vary in size and exact location from year to year.

The petition also discusses the very specific threat of the Deepwater Horizon oil spill and asserts it has degraded important whale shark habitat. The petition further states that the extensive oil drilling in this region and the ''high probability'' of future spills also pose a serious threat to this important whale shark habitat. The Deepwater Horizon spill was a catastrophic disaster, and such events are extremely problematic for endemic species in particular. While some whale sharks may have been exposed to oil and suffered some harm, possibly even through the ingestion of contaminated prey, it is unknown at this time whether and to what extent there are acute or chronic effects on whale sharks at a population level. A reference cited in the petition discusses observations made by scientists at Mote Marine Laboratory of elevated numbers of whale sharks in the more pristine waters near Florida's Gulf Coast during the summer months following the spill (Handwerk, 2010). These observations have led researchers to ask whether whale sharks that typically use the northern Gulf of Mexico were responding to the spill by avoiding the impacted area.

In summary, the petition, the references cited, and information in our files do not comprise substantial information indicating there is present or threatened destruction, modification, or curtailment of the whale shark's habitat or range such that listing may be warranted.

Overutilization

The petition states that commercial fishing is the greatest contributor to the overutilization of whale sharks and refers to landings information for fisheries in India, Taiwan and the Philippines. The petition also states that whales sharks are ''heavily fished'' in

Taiwan. Whale shark fishing in Taiwan, however, as well as in India and the Philippines, is currently prohibited (Rowat and Brooks, 2012). Whale sharks are also legally protected in Australia, Belize (at Gladden Spit), Honduras, Mexico, the Maldives, Malaysia, Thailand, and the Atlantic waters of the United States (Norman, 2005). Information in our files does, however, indicate that while a targeted fishery for whale sharks does not yet exist in China, a commercial fishery may be emerging, and monitoring is needed to determine the extent to which incidental catch is occurring and what effects this may be having on whale shark populations in China (Li *et al.,* 2012).

The petition states that in addition to direct commercial harvest, incidental capture of whale sharks has resulted in population decline. No information about population declines as a result of bycatch, however, is provided. Information in our files about the response of fishermen to incidental capture of whale sharks in small-scale fisheries is mixed. Interviews conducted with local fishermen in China indicate that some fishermen consider them a nuisance species and will kill them to minimize damage to their nets, while others have assisted with transferring incidentally captured whale sharks to a rehabilitation center (Li *et al.,* 2012). In Tanzania, fishermen reportedly do not actively hunt for whale sharks and instead actively avoid them to prevent damage to their nets (Norman, 2005). Following the prohibition on killing whale sharks in Taiwan in 2008, Hsu *et al.* (2012) reports that an unprecedented number of incidentally caught whale sharks were released alive (n = 154).

The petition highlights the tuna purse seine fishery and the practice of setting nets around whale sharks as a major source of whale shark mortality, injury and physiological stress. Based on purse seine fleet records of whale shark-associated sets, whale shark mortality rates can be high but also seem to vary widely (Rowat and Brooks, 2012; WCPFC, 2012). The highest mortality appears to have been occurring in the Pacific fleets (Rowat and Brooks, 2012), which consequently led to a ban on setting nets around whale sharks by the Western and Central Pacific Fisheries Commission (WCPFC) in 2012 (effective January, 2014). The WCPFC is developing guidelines for the safe release and handling of whale sharks and will be making these available to fishing vessels (WCPFC, 2011). The Parties to the Nauru Agreement, which collectively control one of the world's largest tuna purse seine fisheries, also agreed in 2010 that vessels shall not engage in fishing or related activity in order to catch tuna associated with whale sharks. Very recently, both the Indian Ocean Tuna Commission (IOTC) and the Inter-American Tropical Tuna Commission (IATTC) have also adopted whale shark provisions similar to the WCPFC's.

A third category of overutilization discussed in the petition is the dive-based ecotourism occurring in many of the predictable whale shark aggregation areas throughout the world. The petition specifically identifies diver interactions with whale sharks, such as close approaches, touching and riding, as forms of harassment that potentially disrupt normal life functions. We strongly advocate against touching, handling, or riding any marine wildlife. It remains highly speculative, however, whether any short or long term impacts to whale shark populations are occurring as result of tourist activities (Colman, 1997). Whale shark encounters with divers and tourists are also generally limited to those portions of the population and those times of year when whale sharks form seasonal aggregations in coastal areas. Thus, given their largely offshore existence, whale sharks have considerable refuge from interactions with ecotourism operations. In a preliminary investigation of whale shark tolerance of snorkelers, Rezzolla and Storai (2010) analyzed categories of whale shark behaviors and interactions with humans to produce an index of distress. In their study, which took place in the Gulf of Tadjoura, Djibouti, snorkeler presence was not found to result in any negative interference with natural whale shark behavior in a large majority of encounters; and, in only 12.7 percent of encounters (N = 55) did whale sharks demonstrate a defensive attitude (i.e., banking; Rezzolla and Storai, 2010). For whale sharks at Ningaloo Reef, where dive-based ecotourism has a relatively long history, recent modeling of the population provides no evidence of a population decline; nor is there any indication among tour operators and park managers that whale sharks at North Ningaloo are becoming harder to find (Holmberg *et al.,* 2009).

Taking a precautionary approach, however, some countries have instituted certain restrictions on ecotourism activities. In Belize, only six dive and snorkel boats are allowed within the area designated for whale shark viewing, and diving at dusk and night are prohibited except for permitted research purposes (Heyman *et al.,* 2001; Ramírez-Macías *et al.,* 2012). Also, in 1993, with the increasing numbers of tourists visiting Ningaloo Marine Park to see the whale sharks, the Western Australian Department of Conservation and Land Management instituted a licensing system to manage commercial operations within the park and reduce disturbance to whale sharks (Coleman, 1997). Protections there include limitations on the number of licensed tour operators; restrictions on approach speeds, distances and time vessels can be near the sharks; and restrictions on numbers, behavior and proximity of divers to the sharks (DOEC, 2012).

Given the information discussed above, we conclude that the petition, the references cited, and information in our files do not comprise substantial information indicating there is overutilization for commercial, recreational, scientific or educational purposes such that listing may be warranted.

Inadequacy of Existing Regulatory Mechanisms

The petition acknowledges that different national and international protections have been implemented to conserve whale sharks but states that these existing protections are either ineffective or lack enforcement. Citing the last IUCN assessment, the petition asserts that illegal fishing is continuing despite fishing bans. The IUCN assessment, however, only reports that ''. . . illegal fishing [in the Philippines] and attempted export of meat still continues on a small scale, with shipments having been impounded by customs authorities (Anon, 2002b)'' (see Norman, 2005). Additional information on the extent of illegal fishing in the Philippines or elsewhere is not provided.

The petition also asserts that the CITES Appendix II listing of whales sharks offers insufficient protection. The petition argues that because an Appendix II listing requires issuance of export permits only and not import permits, the CITES listing does not address domestic consumption nor the potential for landing whale sharks caught in one country at ports of another country. No information accompanies these statements to indicate whether or not such activities are occurring to any degree that would constitute a concern for whale sharks. The petition also argues that the CITES listing is insufficient because the requirements are 'easily circumvented' and lack adequate enforcement. While we agree enforcement challenges probably exist, no specific information in the petition or in our files indicates that illegal foreign trade is posing a

threat that may be creating an extinction risk for whale shark populations.

CITES can be an effective tool to control, track and regulate trade, but it is not intended to replace fisheries and other forms of management. At least a dozen countries have developed national conservation measures for whale sharks, including bans on capture and killing of whale sharks in those countries where targeted whale shark fishing was once relatively intense (Rowat and Brooks, 2012). Whale sharks also receive protection under the Shark Conservation Act of 2010 (Pub. L. 111–348, January 4, 2011), which prohibits removing fins from sharks harvested seaward of state waters or possessing such unattached shark fins at port or at sea by any person subject to the jurisdiction of the United States; the High Seas Driftnet Moratorium Protection Act (16 U.S.C. 1826h–k), which, among other provisions, allows for the identification and certification of nations by the United States to address bycatch of protected species and shark catches; and through the fisheries management actions by the WCPFC, IOTC and IATTC. In additional several U.S. coastal states have adopted measures to conserve sharks. Whale sharks are listed on Appendix II of the Convention of Migratory Species of Wild Animals (''the Bonn Convention''), which provides an international forum for the development of a conservation and management plan (Rowat and Brooks, 2012). Whale sharks are also likely to benefit from the United Nations Food and Agriculture Organization's International Plan of Action for the Conservation and Management of Sharks, which calls for conservation and management of sharks to allow for long-term, sustainable use and has already stimulated the development of over a dozen national plans of action (Rowat and Brooks, 2012). Conservation efforts may be further bolstered by the increasing demand for live whale sharks in countries where ecotourism has replaced fishing as a source of revenue (Norman, 2005).

In conclusion, we find that the information presented in the petition and available in our files does not comprise substantial information indicating inadequacies of existing regulatory mechanisms such that listing may be warranted.

Other Natural and Manmade Factors

The petition lists the whale shark's susceptibility to fishing and natural history strategy as additional threats to whale sharks. Several biological characteristics of whale sharks—including large body size, long life span, and late maturation—do suggest that this species cannot sustain high levels of exploitation. This statement is supported by the reported declines in landings in the now closed whale shark fisheries in Taiwan, India and the Philippines following the increase in popularity and price of whale shark meat in the 1990's (Compagno, 2002; Hsu *et al.,* 2012). In fact, the IUCN listing was based largely on the observed and projected declines in fisheries from the Indian and Philippine fisheries, both of which are now closed (Rowat and Brooks, 2012). In the absence of these targeted fisheries or evidence of overutilization of whale sharks, the natural history characteristics of whale sharks do not inherently pose a threat to the species. Broad statements in the petition that whale sharks are ''currently experiencing the type of rapid chaotic change that makes their K-selected life history pattern a liability,'' and that they are ''being fished from their remaining habitat at a rate greater than they can replenish their numbers'' are not accompanied by supporting data or information about whale sharks. In conclusion, we find that there is not substantial information indicating that the other natural or manmade factors named in the petition are operating such that listing may be warranted.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, we conclude the petition does not present substantial scientific or commercial information indicating the petitioned action may be warranted.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 12, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 2013–20026 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of Membership Solicitation for Hydrographic Services Review Panel.

SUMMARY: This notice responds to the Hydrographic Service Improvements Act Amendments of 2002, Public Law 107–372, which requires the Administrator of the National Oceanic and Atmospheric Administration (NOAA), to solicit nominations for membership on the Hydrographic Services Review Panel (HSRP). The HSRP, a Federal advisory committee, advises the Administrator on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act (HSIA) of 1998 (as amended) and such other appropriate matters as the Administrator refers to the Panel for review and advice. Those responsibilities and authorities include, but are not limited to: Acquiring and disseminating hydrographic data and providing hydrographic services, as those terms are defined in the Act; promulgating standards for hydrographic data and services; ensuring comprehensive geographic coverage of hydrographic services; and testing, developing, and operating vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services.

The Act states that ''voting members of the Panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.'' The NOAA Administrator welcomes applications from individuals with expertise in navigation data, products and services; marine cartography and geospatial information systems; geodesy; physical oceanography; coastal resource management, including fisheries management and regional marine planning; and other science-related

fields. To apply for membership on the Panel, applicants are asked to provide: (1) A cover letter that includes responses to the ''Short Response Questions'' listed below, and (2) a current resume (see **ADDRESSES** section). NOAA is an equal opportunity employer.

Short Response Questions:

(1) What area(s) of expertise, as listed above, would you best represent on this panel?

(2) What geographic region(s) of the country do you primarily associate your expertise with?

(3) Describe your leadership or professional experiences which you believe will contribute to the effectiveness of this panel.

(4) Generally describe the breadth and scope of stakeholders, users, or other groups whose views and input you believe you can represent on the panel.

DATES: Cover letter and current resume materials should be sent to the address, email, or fax specified and must be received by September 13, 2013.

ADDRESSES: Submit cover letter and current resume to Kathy Watson via mail, fax, or email. Mail: Kathy Watson, NOAA National Ocean Service, Office of Coast Survey, NOAA (N/CS), 1315 East West Highway, SSMC3 Rm 6126, Silver Spring, MD 20910; Fax: 301–713–4019; Email: *Hydroservices.panel@noaa.gov;* or *kathy.watson@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Kathy Watson, NOAA National Ocean Service, Office of Coast Survey, NOAA (N/CS), 1315 East West Highway, SSMC3 Rm 6126, Silver Spring, Maryland 20910; Telephone: 301–713–2770 x158, Fax: 301–713–4019; Email: *Hydroservices.panel@noaa.gov;* or *kathy.watson@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a, *et seq.,* NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on current and emerging oceanographic and marine science technologies relating to operations, research and development; and dissemination of data pertaining to:

(a) hydrographic surveying;
(b) shoreline surveying;
(c) nautical charting;
(d) water level measurements;
(e) current measurements;
(f) geodetic measurements;
(g) geospatial measurements;
(h) geomagnetic measurements; and
(i) other oceanographic/marine related sciences.

The Panel has fifteen voting members appointed by the NOAA Administrator in accordance with 33 U.S.C. 892c. Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. In addition, there are four non-voting members that serve on the Panel: The Co-Directors of the NOAA-University of New Hampshire Joint Hydrographic Center/Center for Coastal and Ocean Mapping, and the Directors of NOAA's Office of National Geodetic Survey and NOAA's Center for Operational Oceanographic Products and Services. The Director, NOAA Office of Coast Survey, serves as the Designated Federal Official (DFO).

This solicitation is to obtain candidate applications for five (5) voting member vacancies on the Panel as of January 1, 2014. Additional appointments may be made to fill vacancies left by any members who choose to resign during 2014. Be advised that some voting members whose terms expire January 1, 2014, may be reappointed for another full term if eligible.

Full-time officers or employees of the United States may not be appointed as a voting member. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Administrator) any assistance under 33 U.S.C. 892c shall disclose to the Panel that relationship, and may not vote on any matter pertaining to that assistance.

Voting members of the Panel serve a four-year term, except that vacancy appointments are for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the Administrator and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve until his or her successor has taken office. The Panel selects one voting member to serve as the Chair and another to serve as the Vice Chair. The Vice Chair acts as Chair in the absence or incapacity of the Chair but will not automatically become the Chair if the Chair resigns. Meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the Administrator. Voting members receive compensation at a rate established by the Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the Panel. Members are reimbursed for actual and reasonable expenses incurred in performing such duties.

Individuals Selected for Panel Membershp

Upon selection and agreement to serve on the HSRP Panel, you become a Special Government Employee (SGE) of the United States Government. 18 U.S.C. 202(a) an SGE (s) is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a fulltime or intermittent basis. Please be aware that after the selection process is complete, applicants selected to serve on the Panel must complete the following actions before they can be appointed as a Panel member:

(a) Security Clearance (on-line Background Security Check process and fingerprinting conducted through NOAA Workforce Management); and

(b) Confidential Financial Disclosure Report—As an SGE, you are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Report at the following Web site. *http://www.usoge.gov/forms/form_450.aspx*

Dated: August 8, 2013.

Gerd F. Glang,

Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–19941 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Comment Period for the Wells, Maine National Estuarine Research Reserve Management Plan revision.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce is announcing a thirty day public comment period for the Wells, Maine National Estuarine Research

Reserve Management Plan revision. Pursuant to 15 CFR Section 921.33(c), the revised plan meets the reserve's requirements for compliance. The Wells Reserve Management Plan revision will replace the plan approved in 2007.

The revised management plan outlines the administrative structure; the research & monitoring, education, training, and stewardship goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations.

The Wells, Maine National Estuarine Research Reserve takes an integrated approach to management, linking research, education, training and stewardship functions to address high priority issues including the impact of climate change of coastal ecosystems and communities, development pressures, population growth, land-use change, habitat fragmentation, and water quality degradation. Since the last management plan, the reserve implemented its core programs and expanded its monitoring infrastructure to include Sentinel Site protocols; enhanced its facilities, including new Visitor Center exhibits and interpretive trail signs; constructed an environmental chamber for year-round research; and furthered land conservation in the reserve's targeted watersheds.

The revised management plan will serve as the guiding document for the 2,250 acre Wells National Estuarine Research Reserve for the next five years. The Wells National Estuarine Research Reserve Management Plan revision can be viewed at *www.wellsreserve.org*. Comments can be provided to Paul Dest, Reserve Director at *dest@wellsnerr.org*.

FOR FURTHER INFORMATION CONTACT: Alison Krepp at (301) 563–7105 or Erica Seiden at (301) 563–1172 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: August 12, 2013.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–19942 Filed 8–15–13; 8:45 am]

BILLING CODE 3510–08–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List, Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes services from the Procurement List previously provided by such agencies.

DATES: *Effective Date:* 9/16/2013.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 6/7/2013 (78 FR 34350–34351); 6/14/2013 (78 FR 35874–35875); 6/21/2013 (78 FR 37524–37525); and 6/28/2013 (78 FR 38952–38953), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.

2. The action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 USC 8501–8506) in connection with the products and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and service are added to the Procurement List:

Products

Cover, Certificate-Document, Gold Foil Stamped

NSN: 7510–01–519–5770—Black.
NSN: 7510–01–519–5771—Blue.
NPA: Dallas Lighthouse for the Blind, Inc., Dallas, TX.
Contracting Activity: GENERAL SERVICES ADMINISTRATION, NEW YORK, NY.
COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 8020–00–NIB–0050—Utility Knife, Snap Off Blade, Standard Duty, 9mm.
NSN: 8020–00–NIB–0052—Utility Knife, Snap Off Blade, Heavy Duty, 18mm.
NSN: 8020–00–NIB–0058—Snap Off Blades, Replacement, Utility Knife, Heavy Duty, 18mm, 8pt.
COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 8020–00–NIB–0006—Trimmer, Edge, Paint, Refillable, 4 ¾″ W × 3 ½″ H.
NSN: 8020–00–NIB–0008—Refill Pads, Trimmer, Edge.
NSN: 8020–00–NIB–0044—Brush, Synthetic Filament, Flexible Handle, Ergonomic, 2″.
NSN: 8020–00–NIB–0045—Brush, Synthetic Filament, Recycled Handle, 2″.
NSN: 8020–00–NIB–0046—Brush, Synthetic Filament, Recycled Handle, 1.5″.
NSN: 8020–00–NIB–0051—Utility Knife, Snap Off Blade, Standard Duty, 18mm.
NSN: 8020–00–NIB–0053—Utility Knife, Snap Off Blade, Cushion Grip, Ergonomic, Heavy Duty, 18mm.
NSN: 8020–00–NIB–0054—Utility Knife, Snap Off Blade, Cushion Grip, Ergonomic, Heavy Duty, 25mm.
NSN: 8020–00–NIB–0055—Utility Knife, Retractable, Cushion Grip, Ergonomic, Heavy Duty, 2 pt Blade.
NSN: 8020–00–NIB–0056—Snap Off Blades, Replacement, Utility Knife, Standard Duty, 9mm, 13 pt.
NSN: 8020–00–NIB–0057—Snap Off Blades, Replacement, Utility Knife, Standard Duty, 18mm, 8pt.
NSN: 8020–00–NIB–0059—Snap Off Blades, Replacement, Utility Knife, Heavy Duty, 25mm, 7pt.
NSN: 8020–00–NIB–0060—Replacement Blades, Utility Knife.
COVERAGE: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: GENERAL SERVICES

ADMINISTRATION, TOOLS ACQUISITION DIVISION I, KANSAS CITY, MO.

NSN: MR 10623—Container, Frozen Waffle, Expandable.

NSN: MR 10627—Garden Seed Packets, Assorted, 4PK.

NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.

Contracting Activity: DEFENSE COMMISSARY AGENCY, FORT LEE, VA.

COVERAGE: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

NSN: 7510–00–NIB–9832—Portable Desktop Clipboard, 10″ W × 2-3/5″ D × 16″ H, Black.

NSN: 7510–00–NIB–9833—Portable Desktop Clipboard, 10″ W × 2-3/5″ D × 16″ H, Blue.

NSN: 7510–00–NIB–9851—Portable Desktop Clipboard with Calculator, 10″ W × 2-3/5″ D × 16″ H, Black.

NSN: 7510–00–NIB–9852—Portable Desktop Clipboard with Calculator, 10″ W × 2-3/5″ D × 16″ H, Blue.

COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 7510–00–NIB–9834—Portable Desktop Clipboard, 10″ W × 2-3/5″ D × 16″ H, Army Green.

NSN: 7510–00–NIB–9853—Portable Desktop Clipboard with Calculator, 10″ W × 2-3/5″ D × 16″ H, Army Green.

COVERAGE: B-List for the Broad Government Requirement as aggregated by the General Services Administration.

NPA: L.C. Industries for the Blind, Inc., Durham, NC.

Contracting Activity: GENERAL SERVICES ADMINISTRATION, NEW YORK, NY.

Service

Service Type/Location: Mail Distribution Service, NASA, John F. Kennedy Space Center, Mail Stop: OP–OS, Kennedy Space Center, FL.

NPA: Anthony Wayne Rehabilitation Center for Handicapped and Blind, Inc., Fort Wayne, IN.

Contracting Activity: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, KENNEDY SPACE CENTER, KENNEDY SPACE CENTER, FL.

Deletions

On 6/28/2013 (78 FR 38952–38953), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 USC 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 USC 8501–8506) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services

Service Types/Location: Janitorial/Custodial Service, Grounds Maintenance Service, U.S. Army Reserve Center, 3315 9th Street, Wichita Falls, TX.

NPAs: North Texas State Hospital, Wichita Falls, TX; Work Services Corporation, Wichita Falls, TX.

Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT HUNTER (RC–W), MONTEREY, CA.

Service Type/Location: Janitorial/Custodial Service, U.S. Federal Building, Courthouse and Post Office, Third and Sharkey Street, Clarksdale, MS.

NPA: UNKNOWN.

Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR, WASHINGTON, DC.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–19944 Filed 8–15–13; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List, Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments Must Be Received On or Before:* 9/16/2013.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to provide the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Hospital Housekeeping Service, Bayne-Jones Army Community Hospital and Multiple Medical Treatment Facilities, 1585 3rd Street, Fort Polk, LA.

NPA: Enterprise Professional Services, Inc., Austin, TX.

Contracting Activity: DEPT OF THE ARMY, W40M USA MEDCOM HCAA, FORT SAM HOUSTON, TX.

Service Type/Location: Laundry Service, Federal Bureau of Prisons, FMC Carswell, J Street, Building 3000, Fort Worth, TX.

NPA: Goodwill Industrial Services of Fort Worth, Inc., Fort Worth, TX.

Contracting Activity: FEDERAL PRISON SYSTEM, CARSWELL, FMC, FORT WORTH, TX.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–19943 Filed 8–15–13; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Meeting of Technology Advisory Committee.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on September 12, 2013, the CFTC's Technology Advisory Committee (TAC) will hold a public meeting at the CFTC's Washington, DC headquarters, from 10:00 a.m. to 5:00 p.m. The TAC committee will focus on SDR reporting;

swap execution facilities; and the Commission's upcoming concept release on automated trading environments.

DATES: The meeting will be held on September 12, 2013 from 10:00 a.m. to 5:00 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by September 6, 2013.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Written statements should be submitted to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, attention: Office of the Secretary. Please use the title ''Technology Advisory Committee'' in any written statement you may submit. Any statements submitted in connection with the committee meeting will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Andy Menon, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5502.

SUPPLEMENTARY INFORMATION: The TAC meeting will focus on significant issues facing the futures and swaps industries as the Commission continues to finalize rules under the Dodd-Frank Act. Those issues include: (1) Data standardization in the context of SDR data reporting; (2) the Commission's upcoming concept release on automated trading environments; and (3) various issues surrounding the registration and operation of swap execution facilities (''SEFs'').

The meeting will be open to the public with seating on a first-come, first-served basis, and will be Web cast on the CFTC's Web site, *www.cftc.gov*. Audio of the meeting will be available via listen-only conference call. Additionally, a video recording of the meeting will later be posted on the CFTC's Web site, *www.cftc.gov*. All written submissions provided to the CFTC in any form will also be published on the Web site of the CFTC.

Members of the public can listen to the meeting by telephone by calling a toll-free telephone line to connect to a live audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Toll Free: 1–866–844–9416.

International Toll: Under Related Documents to be posted on *www.cftc.gov*.

Conference ID: 6649269.

Call Leader Name: Wilbert Gross.

Pass Code/Pin Code: CFTC.

Authority: 5 U.S.C. app. 2 § 10(a)(2).

Dated: August 12, 2013.

Melissa D. Jurgens,

Secretary of the Commission.

[FR Doc. 2013–19864 Filed 8–15–13; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, September 6, 2013.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Examinations, and Enforcement Matters. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov*.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–20115 Filed 8–14–13; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, September 20, 2013.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Examinations, and Enforcement Matters. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov*.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–20113 Filed 8–14–13; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, September 13, 2013.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Examinations, and Enforcement Matters. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov*.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–20114 Filed 8–14–13; 4:15 pm]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a Revised Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (CFPB or Bureau), gives notice of the establishment of a revised Privacy Act System of Records.

DATES: Comments must be received no later than September 16, 2013. The new system of records will be effective September 25, 2013, unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments by any of the following methods:

- *Electronic: privacy@cfpb.gov.*
- *Mail/Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435–

7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, (202) 435–7220.

SUPPLEMENTARY INFORMATION: The CFPB revises its Privacy Act System of Records Notice (SORN) ''CFPB.006—Social Networks and Citizen Engagement System.'' In revising this SORN, the CFPB modifies the authorities under which this system is maintained; modifies the purpose(s) for which the system is maintained; modifies the notification procedures for individuals seeking access to records maintained in this system; modifies the system location, system manager(s) and address; consolidates two routine uses (previously routine uses 6 and 7) which include the disclosure of personally identifiable information (PII) from the system to the U.S. Department of Justice (DOJ) for its use in providing legal advice to the CFPB or in representing the CFPB in a legal proceeding; and provides clarifying language in the categories of individuals for the system, the categories of records for the system, the retention and disposal of records in the system, and the record source categories for the system.

The report of the revised system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000,[1] and the Privacy Act, 5 U.S.C. 552a(r).

The revised system of records entitled ''CFPB.006—Social Networks and Citizen Engagement System'' is published in its entirety below.

[1] Although the CFPB, under 12 U.S.C. 5497(a)(4)(E), is not legally required to follow OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

Dated: August 13, 2013.

Claire Stapleton,

Chief Privacy Officer, Bureau of Consumer Financial Protection.

CFPB.006

SYSTEM NAME:

Social Networks and Citizen Engagement System

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of social media who interact with the CFPB through the Bureau's Web site, or through various social media outlets, including but not limited to third-party sites and services such as Facebook, Twitter, YouTube, LinkedIn, and Flickr. Other covered individuals may include those who sign on to various parts of the CFPB Web site with a user identity provided by a third-party, including but not limited to sites and services such as Disqus, Facebook, and Twitter. These may be members of the public, employees, or contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the system may contain information that an individual shares voluntarily with the CFPB through various social media sites and services. They may also contain information that is stored to ensure that an individual can access Web sites where a login is required. This may include without limitation: name, username, email address, birth date, security questions, IP addresses, location, passwords, authentication, business affiliation, demographic information, videos, photos, and other general information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 111–203, Title X, Sections 1011, 1012, 1021, codified at 12 U.S.C. 5491, 5492, 5511. Executive Order 13571, Streamlining Service Delivery and Improving Customer Service, April 27, 2011.

PURPOSE(S):

The information in the system is being collected to facilitate internal and external interactions concerning the CFPB and CFPB programs. The use of social media platforms will increase collaboration and transparency with the public, as well as employees and contractors. The use of social media will enable the CFPB to interact with the public in effective and meaningful ways, encourage the wide sharing of information regarding consumer financial issues and the strengthening of an online community of consumers, and ensure that critical information about the agency and key consumer finance issues is distributed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the CFPB's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070 *et seq.,* to:

(1) Appropriate agencies, entities, and persons when: (a) The CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(2) Another federal or state agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(3) The Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;

(4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;

(6) The DOJ for its use in providing legal advice to the CFPB or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding,

and such proceeding names as a party in interest:

(a) The CFPB;

(b) Any employee of the CFPB in his or her official capacity;

(c) Any employee of the CFPB in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;

(7) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings; and

(8) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Records are retrievable by full-text search. Records may also be retrieved by personal identifiers, which may include without limitation: name, username, email address, IP addresses, geographic information, and demographic information.

SAFEGUARDS:

Access to electronic records that are not otherwise available to the general public by virtue of their presence on social media sites is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

The CFPB will manage all computer and paper files in the system as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the CFPB will dispose of such files in accordance with the schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau, Assistant Director, Consumer Engagement, 1700 G Street NW., Washington, DC 20552.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing the CFPB's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070 *et seq.* Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individuals who voluntarily interact with the CFPB through various social media sites and services, or as a result of public outreach.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–19971 Filed 8–15–13; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–67]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–67 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 13, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

AUG 6 2013

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-67, concerning the Department of the Army's and Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $2.403 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III

William E. Landay, III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–67

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 1.133 billion
Other	$ 1.270 billion
Total	$ 2.403 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 40 AVENGER Fire Units, 681 STINGER Reprogrammable Micro-Processor (RMP) Block I 92H Missiles, 13 AN/MPQ–64F1 SENTINEL Radars, 7 AN/YSQ–184D Forward Area Air Defense Command, Control, and Intelligence (FAAD C2I) Systems, 75 AN/VRC–92E SINCGARS Radios, 3 HAWK XXI Batteries (6 Fire Units) which include 6 Battery Fire Direction Centers, 6 High Powered Illuminator Radars, 216 MIM–23P HAWK Tactical Missiles, 2 Mobile Battalion Operation Centers (BOC), 3 HAWK XXI BOC Air Defense Consoles (ADCs), 1DS/GS Shop 20, 1 DS/GS Shop 21, 1 Mini-Certified Round Assembly Facility (MCRAF), Air Command and Control (C2) systems and surveillance radars for the Integrated Air Defense Systems that includes TPS–77 Long-Range Radars (LRR) and Omnyx-I0 Air Command and Control System, and 10 Medium Range Radars. Also included: Ground Air Transmit Receive Ultra High Frequency/Very High Frequency radio capability, facilities and construction for one (1) underground Air Defense Operations Center and two (2) Air Defense Sector Operations Centers, spare and repair parts, repair and return, software support, systems integration, long haul communication technical

integration, communications equipment, support equipment and sustainment, tools and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor representative engineering, technical, and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Army (UFU, UEO); Air Force (QBF)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 5 August 2013

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Iraq—Integrated Air Defense System

The Government of Iraq has requested a possible sale of 40 AVENGER Fire Units, 681 STINGER Reprogrammable Micro-Processor (RMP) Block I 92H Missiles, 13 AN/MPQ–64F1 SENTINEL Radars, 7 AN/YSQ–184D Forward Area Air Defense Command, Control, and Intelligence (FAAD C2I) Systems, 75 AN/VRC–92E SINCGARS Radios, 3 HAWK XXI Batteries (6 Fire Units) which include 6 Battery Fire Direction Centers, 6 High Powered Illuminator Radars, 216 MIM–23P HAWK Tactical Missiles, 2 Mobile Battalion Operation Centers (BOC), 3 HAWK XXI BOC Air Defense Consoles (ADCs), 1DS/GS Shop 20, 1 DS/GS Shop 21, 1 Mini-Certified Round Assembly Facility (MCRAF), Air Command and Control (C2) systems and surveillance radars for the Integrated Air Defense Systems that includes TPS–77 Long-Range Radars (LRR) and Omnyx-I0 Air Command and Control System, and 10 Medium Range Radars. Also included: Ground Air Transmit Receive Ultra High Frequency/Very High Frequency radio capability, facilities and construction for one (1) underground Air Defense Operations Center and two (2) Air Defense Sector Operations Centers, spare and repair parts, repair and return, software support, systems integration, long haul communication technical integration, communications equipment, support equipment and sustainment, tools and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor representative engineering, technical, and logistics support services, and other related elements of logistics support. The estimated cost is $2.403 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country. This proposed sale directly supports the Iraqi government and serves the interests of the Iraqi people and the United States.

This proposed sale of Ground Based Air Defense Systems will help the Government of Iraq to modernize its armed forces. The proposed air defense system will provide the Iraqi Air Defense Command situational awareness of the country's airspace and a baseline tactical radar and threat intercept capability. This capability will provide Iraq with the ability to contribute to regional air defenses and reduce its vulnerability to air attacks and also enhance interoperability between the Government of Iraq, the U.S., and other allies.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors involved in this program are: Lockheed Martin Corporation, San Diego, California; Thales Raytheon Systems, Fullerton, California; Boeing Company and American General, Letterkenny Army Depot, Chambersburg, Pennsylvania; Raytheon Integrated Defense Systems, Andover, Massachusetts; Northrop Grumman, Rolling Meadows, Illinois; and Kratos Defense and Aerospace, Huntsville, Alabama. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require 20–25 U.S. Government or contractor representatives to travel to Iraq for a period of 8–10 weeks for equipment checkout and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2013–19986 Filed 8–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–41]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–41 with attached transmittal, and policy justification.

Dated: August 13, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

AUG 0 8 2013

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-41, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $54 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification

BILLING CODE 5001–06–C

Transmittal No. 13–41

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$47 million
Other	$ 7 million
Total	$54 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* up to 4,002 M1156 Precision Guidance Kits (PGK) for 155mm munitions, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Army (UGV, A01)

(v) *Prior Related Cases, if any:* FMS case UGV–$20M–31Dec12

(vi) *Sales Commissions, Fee, etc:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 8 August 2013

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Government of Australia—Munitions

The Government of Australia has requested a possible sale of up to 4,002 M1156 Precision Guidance Kits (PGK)

for 155mm munitions, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistics support. The estimated cost is $54 million.

Australia is an important ally in the Western Pacific that contributes significantly to ensuring peace and economic stability in the region. Australia has requested these PGKs to provide for the defense of deployed troops, in pursuit of regional security objectives and interoperability with the United States. This proposed sale is consistent with U.S. objectives to strengthen Australia's military capabilities and facilitate burden sharing.

(U) The Government of Australia requires these PGKs to provide capabilities vital to defend against external and other potential threats. This proposed sale supports Australia's efforts to effectively secure its borders and littoral waters, as well as conduct counter-terrorism/counter-piracy operations. The Government of Australia is capable of absorbing and maintaining these guidance kits in its inventory.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractor will be ATK Armament Systems of Plymouth, Minnesota. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of U.S. Government or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2013–19977 Filed 8–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–21]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–21 with attached transmittal, and policy justification.

Dated: August 13, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

AUG 5 2013

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-21, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $339 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 13–21

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) (1) Of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 258 million
Other	$ 81 million
Total	$ 339 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 19 Mobile Troposcatter Radio Systems, 10 Mobile Microwave Radio Systems, spare and repair parts, support equipment, publications and technical data, personnel training and training equipment, site surveys, U.S. Government and contractor technical assistance, and other related elements of program and logistics support.

(iv) *Military Department:* U.S. Army (UFS)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 5 August 2013

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Iraq—Mobile Troposcatter Radio Systems

The Government of Iraq has requested a possible sale of 19 Mobile Troposcatter Radio Systems, 10 Mobile

Microwave Radio Systems, spare and repair parts, support equipment, publications and technical data, personnel training and training equipment, site surveys, U.S. Government and contractor technical assistance, and other related elements of program and logistics support. The estimated cost is $339 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the Iraqi military's situational awareness and enhancing command and control from its National Military Headquarters to major subordinate commands.

The Government of Iraq intends to use these defense articles and services to provide critical redundancy for national level command and control.

This proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Company of Arlington, Virginia. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require U.S. Government and contractor representatives to travel to Iraq on an as-needed basis to provide program and technical support and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2013–19976 Filed 8–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., as amended, 41 CFR 102–3.150) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense (DoD) announces the following Federal advisory committee meeting of the Uniform Formulary Beneficiary Advisory Panel (''the Panel'').

DATES: Thursday, September 19, 2013, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: CDR Joseph Lawrence, DFO, Uniform Formulary Beneficiary Advisory Panel, 4130 Stanley Road, Suite 208, Building 1000, San Antonio, TX 78234–6012. Telephone: (210) 295–1271 Fax: (210) 295–2789. Email Address: *Baprequests@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director of TRICARE Management Activity, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

Meeting Agenda:

1. Sign-In
2. Welcome and Opening Remarks
3. Public Citizen Comments
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item)
   a. Corticosteroids-Immune Modulators
   b. Self-Monitoring Blood Glucose Systems
   c. Renin-Angiotensin Anti-hypertensives
   d. Pulmonary-1 Agents
   e. Designated Newly Approved Drugs in Already-Reviewed Classes
   f. Pertinent Utilization Management Issues
5. Panel Discussions and Vote

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Session: Prior to the public meeting, the Panel will conduct an Administrative Session from 7:30 a.m. to 9:00 a.m. to discuss administrative matters of the Panel. The Administrative Session will be held at the Naval Heritage Center, 701 Pennsylvania Avenue NW., Washington, DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Session will be closed to the public.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database at *https://www.fido.gov/facadatabase/public.asp* as well as in the **FOR FURTHER INFORMATION CONTACT** section.

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than 5 business days prior to the meeting in question. The DFO will submit all written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register the day of the meeting to address the Panel. The Panel's DFO will have a ''Sign-Up Roster'' available at the Panel meeting for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period, no further public comments will be accepted. Anyone who signs-up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation.

To ensure timeliness of comments for the official record, the Panel encourages that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: August 13, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–19927 Filed 8–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Draft Programmatic Environmental Impact Statement for Activities and Operations at Yuma Proving Ground, Arizona

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army announces the availability of the Draft Programmatic Environmental Impact Statement (DPEIS) for implementation of activities and operations at Yuma Proving Ground (YPG). This document

analyzes and evaluates potential environmental impacts associated with short-term and long-term proposed construction projects and proposed changes to YPG's testing and training mission. YPG consists of approximately 840,000 acres of DoD-managed land in the Sonoran Desert in southwestern Arizona.

DATES: The public comment period will end 45 days after publication of an NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: For questions concerning the DPEIS, please contact Mr. Sergio Obregon, U.S. Army Garrison Yuma Proving Ground, National Environmental Policy Act Coordinator, IMYM–PWE, Yuma, AZ 85365–9498. Written comments may be mailed to that address or emailed to *ypgnepa@conus.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Wullenjohn, Yuma Proving Ground Public Affairs Office, at (928) 328–6189 Monday through Thursday from 6:30 a.m. to 5:00 p.m., Mountain Standard Time.

SUPPLEMENTARY INFORMATION: The Department of the Army prepared a DPEIS to analyze potential impacts from new construction, changes in testing and training, and activities conducted under private industry partnerships. Potential renewable energy initiatives are also discussed in the DPEIS, but project-specific National Environmental Policy Act (NEPA) analysis separate from the DPEIS will be required prior to implementing any specific renewable energy initiatives.

There are two alternatives analyzed in this DPEIS: (1) No Action which describes the conditions under which no new actions would occur. There would be no changes in testing and training activities conducted at YPG, and (2) the Proposed Action which includes new construction and associated demolition, testing and training activities occurring on YPG, and new testing and training proposed by tenants to meet anticipated testing or training needs. The programmatic components of the DPEIS consist of a detailed analysis of well defined short-term projects and long-term projects with unspecified locations. These are analyzed to identify the maximum potential impact on a broad scale. These activities would be subjected to site-specific NEPA analysis prior to implementation and could include analysis of other reasonable alternatives to the identified action. Six other alternatives were considered but eliminated from further analysis.

The PEIS will be used to develop a future Real Property Master Plan (RPMP) at YPG. This analysis will support the future planning to ensure that YPG considers environmental impacts as it seeks to improve facilities and capabilities for the future. The analysis in the PEIS will also support the alternatives analysis for the RPMP. The DPEIS will also address cumulative impacts for existing, proposed, and reasonably foreseeable projects.

For the Proposed Action, the analysis is structured to allow the Army to select a subset of the proposed activities or, for certain activities, to select from among a range of options with regard to magnitude, frequency, or duration. The Army is not seeking to expand the boundaries of YPG and all proposed activities would be conducted within the boundaries of the installation or its currently authorized airspace. No changes are proposed to ongoing activities conducted at off-post areas in Arizona and California that are used for specific testing activities under conditions not found at YPG. Therefore, activities conducted in these areas are not included in the analysis in the DPEIS.

The potential for environmental impacts is greatest for the following resource areas: soils, air quality, solid and hazardous materials/waste, vegetation, and wildlife. Impacts to these resources may occur as a result of converting existing land use to support military testing and training or from increasing the scope or magnitude of testing activities.

All governmental agencies, interest groups, and individuals are invited to participate in public meetings and/or submit comments in writing. Information on the time and location of two public meetings will be published locally. In addition, YPG is engaged in consultation with federally recognized Native American tribes regarding the Proposed Action. YPG will meet the obligation to consult under Section 106 of the National Historic Preservation Act concurrently with this NEPA process through a Programmatic Agreement.

At this time, a Preferred Alternative has not been selected. The Army will select a Preferred Alternative after consideration of input from government agencies, Native American tribes, non-governmental organizations, and members of the public.

Copies of the DPEIS are available at the Yuma County Library, Main Branch, 2951 S. 21st Drive and the Yuma Proving Ground Post Library. The DPEIS can also be viewed at the following Web site: *http://www.yuma.army.mil/mhub_documents.shtml.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–19827 Filed 8–15–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision for the Construction and Operation of an Infantry Platoon Battle Course at Pōhakuloa Training Area, Hawai'i

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Pacific (USARPAC) and U.S. Army Garrison, Hawai'i, (USAG–HI) announce the decision to construct and operate a new Infantry Platoon Battle Course (IPBC) and associated infrastructure at Pōhakuloa Training Area (PTA), Hawai'i. This decision allows the Army to construct and operate an IPBC that will meet Army training requirements and will support the live-fire collective training needs of the Army, Army Reserve, and Hawai'i Army National Guard, as well as other Service components that are stationed or train in Hawai'i.

To comply with the National Environmental Policy Act (NEPA), the Department of the Army prepared an Environmental Impact Statement (EIS) that evaluated the potential environmental and socioeconomic effects associated with alternatives to construct and operate the IPBC. In the Final EIS published in the **Federal Register** on April 26, 2013 (78 FR 24734), the Army identified the Western Range Alternative as the preferred alternative. The Army has selected the preferred alternative in the Record of Decision (ROD). The Western Range Area Alternative is located in an under-utilized portion of the PTA impact area where no ranges currently exist. The location has been exposed to indirect munitions fire and constructing the IPBC here will reclaim a portion of the impact area. A copy of the ROD can be found at *www.garrison.hawaii.army.mil/pta_peis/default.htm.*

ADDRESSES: Email requests to obtain a copy of the ROD can be addressed to *USARMY.JBSA.AEC.MBX@mail.mil.*

FOR FURTHER INFORMATION CONTACT: US Army Environmental Command Public Affairs Office, at 1–855–846–3940 (toll free).

SUPPLEMENTARY INFORMATION: The IPBC will be used to train and test infantry platoons and other units on the skills necessary to conduct collective (group) tactical movement techniques, and to detect, identify, engage, and defeat stationary and moving infantry and armor targets in a tactical array. Soldiers will engage targets with small arms, machine guns, and other weapon systems as part of live-fire exercises. This includes air-ground integration where Soldiers maneuvering on the IPBC can coordinate air support. In addition to live-fire, the range would also be used for training with sub-caliber and/or laser training devices. This type of training is mission essential for Soldiers to be prepared to encounter threats during combat operations overseas.

The Army identified and analyzed environmental and socioeconomic impacts associated with the proposed IPBC in the Final EIS. The major potential environmental impacts are to air quality, threatened and endangered species, cultural sites, encountering munitions and explosives of concern, and igniting wildfires. Significant impacts could occur to cultural resources. Prior to making its decision, the Army considered comments received during the EIS scoping and comment process, and the 30-day waiting period after the Final EIS. The Army's Record of Decision includes the final measures the Army will adopt to avoid, minimize, and mitigate impacts to identified cultural resources.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–19815 Filed 8–15–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket No. DARS–2013–0010]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 16, 2013.

Title, Associated Forms and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor-Protégé Program; OMB Control Number 0704–0322.

Type of Request: Extension.

Number of Respondents: 115.

Responses Per Respondent: Approximately 1.96.

Annual Responses: 225.

Average Burden Per Response: Approximately 1 hour.

Annual Burden Hours: 225.

Needs and Uses: DoD needs this information to evaluate whether the purposes of the DoD Pilot Mentor-Protégé Program have been met. The purposes of the Program are to (1) provide incentives to major DoD contractors to assist protégé firms in enhancing their capabilities to satisfy contract and subcontract requirements; (2) increase the overall participation of protégé firms as subcontractors and suppliers; and (3) foster the establishment of long-term business relationships between protégé firms and major DoD contractors. This Program implements Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510) and Section 811 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65) (10 U.S.C. 2302 note). Participation in the Program is voluntary.

Affected Public: Businesses or other for-profit and not-for- profit institutions.

Frequency: Semiannually (mentor); Annually (protégé).

Respondent's Obligation: Required to obtain or maintain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–19968 Filed 8–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of the Final Environmental Impact Statement for the Tarmac King Road Limestone Mine Proposed in Levy County, Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE) is issuing this notice to advise the public that a Final Environmental Impact Statement (Final EIS) has been completed and is available for review and comment.

DATES: In accordance with the National Environmental Policy Act (NEPA), we have filed the Final EIS with the U.S. Environmental Protection Agency (EPA) for publication of their notice of availability in the **Federal Register**. The EPA notice on August 16, 2013 officially starts the 30-day review period for this document. Comments on the Final EIS must be submitted to the address below under Further Contact Information and must be received no later than 5 p.m. Central Standard Time, September 15, 2013.

Scoping: Scoping Meetings were held in Inglis, FL and Chiefland, FL on March 26th and 27th, 2008 respectively, to gather information for the preparation of the EIS. Public notices were posted in Levy, Citrus, Alachua and Pinellas County newspapers, and emailed and air-mailed to current stakeholder lists with notification of the public meetings and requesting input and comments on issues that should be addressed in the EIS.

A public meeting for the Draft EIS was held on Thursday, May 31, 2012 at the

Inglis Community Center, 137 Highway 40 West, Inglis, FL 34449. The purpose of that public meeting was to provide the public the opportunity to comment, either orally or in writing, on the Draft EIS. Notification of the meeting was announced following same format as the Scoping Meetings announcements. Comments received in response to the Draft EIS have been evaluated and incorporated into this Final EIS.

ADDRESSES: The Final EIS can be viewed online at *http://kingroadeis.com.* Copies of the Final EIS are also available for review at the following libraries:

Bronson Public Library—612 E Hathaway Ave., Bronson, Florida 32621.

Cedar Key Public Library—460 Second Street, Cedar Key, Florida 32625.

Luther Callaway Public Library—104 NE Third Street, Chiefland, Florida 32626.

Williston Public Library—10 SE First Street, Williston, Florida 32696.

A.F. Knotts Public Library—11 56th Street, Yankeetown, Florida 32698.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Sarfert, Senior Project Manager, U.S. Army Corps of Engineers, Jacksonville District, 41 N. Jefferson Street, Suite 301, Pensacola, Florida 32502, Telephone: 850–439–9533, Fax: 850–433–8160.

SUPPLEMENTARY INFORMATION: Tarmac America L.L.C. (Tarmac) proposes to construct a limestone mine in Levy County, Florida to produce FDOT- and commercial-grade limestone aggregate for markets within west-central Florida. As proposed, direct impacts of up to 2,069 acres of wetlands and 1,818 acres of uplands would occur directly from limestone extraction, material stockpiling, roads, and other infrastructure over a period of approximately 100 years. At present, the majority of the property is an actively managed timber operation, with most of the site in varying developmental stages of pine plantation and mixed hardwood/pine forest. Much of the surrounding land is in silviculture use, with scattered residential parcels. The information compiled in this EIS will be used by the USACE to determine whether the proposed activities should be authorized and permitted by the USACE. Tarmac would need to obtain a Department of the Army permit pursuant to Section 404 of the Clean Water Act. This Final EIS evaluates the potential environmental impacts associated with a no action alternative, and seven onsite action alternatives, including Tarmac's preferred alternative above. Under the seven other alternatives analyzed in the Final EIS, mining activities involving discharges of fill material in wetlands could be authorized for varying acreages and lengths of time upon issuance of a Record of Decision.

Dated: August 12, 2013.

Tori K. White,

Deputy Chief, Regulatory Division.

[FR Doc. 2013–19965 Filed 8–15–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board; Meeting

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3, announcement is made of the forthcoming meeting.

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Date: September 11, 2013.

Time: 9:00 a.m. through 12:00 p.m.

Location: Room 3K10, Headquarters, U.S. Army Corps of Engineers, in the Government Accountability Office (GAO) Building, 441 G Street NW., Washington, DC 20548–0002, Phone: (202) 512–6000.

Purpose of the Meeting and Agenda: The Board will advise the Chief of Engineers on environmental policy, identification and resolution of environmental issues and missions, and addressing challenges, problems and opportunities in an environmentally sustainable manner. Discussions and presentations during this meeting will include flow management for sustainable river ecosystems; Corps' outreach opportunities in science, technology, engineering, and mathematics (STEM) education; and introduction of a multi-year work plan for the Board. The Board will also briefly discuss recent site visits and completed letter reports. Following Board discussions and presentations there will be a public comment period.

Public's Accessibility to the Meeting: This meeting will be open to the public. Anyone attending the meeting must enter and exit at the G Street visitors entrance of the GAO Building, present a valid form of government issued photo identification (e.g., drivers license, state-issued photo ID, or passport), and pass through the security screening station. All visitors must be escorted while in the building. The GAO Building is accessible to persons with disabilities. Attendees need to arrive in time to complete the security screening and arrive at the meeting room before 9:00 a.m. Seating will be limited and on a first-come basis.

The Committee's Designated Federal Officer (DFO) and Point of Contact: Mr. John C. Furry, Phone: (202) 761–5875, or email *john.c.furry@usace.army.mil*

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is for the Chief of Engineers to receive the views of his Environmental Advisory Board. However, any member of the public, including interested organizations, may submit written comments to the EAB concerning the Board's mission and functions, or in response to the stated agenda of the meeting. Written statements should be sent to the DFO at: Mr. John C. Furry (3I23), DFO Chief of Engineers Environmental Advisory Board, U.S. Army Corps of Engineers, 441 G Street NW., Washington, DC 20314–1000; or emailed to *john.c.furry@usace.army.mil.* Written and emailed statements must be received by the DFO no later than five working days prior to the meeting in order to allow time for Board consideration. By rule, no member of the public will be allowed to present questions from the floor or speak to any issue under consideration during the deliberative portion of the meeting. However, up to thirty minutes will be set aside in the agenda for public comment. Each statement will be limited to 3 minutes. Anyone who wishes to speak must register prior to the start of the meeting. Registration will be near the meeting room entrance from 8:30 until 8:55 a.m. The EAB operates under the provisions of the Federal Advisory Committee Act, as amended, so all submitted comments and public presentations will be treated as public documents and may be made available for public inspection, including, but not limited to, being posted on the Board's Web site.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–19814 Filed 8–15–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1228–000.
Applicants: Enable Gas Transmission, LLC.
Description: CEGT LLC—August Tenaska negotiated rate filing to be effective 8/5/2013.
Filed Date: 8/5/13.
Accession Number: 20130805–5308.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: RP13–1229–000.
Applicants: WestGas InterState, Inc.
Description: 20130805 WGI Annual Charge Adjustment to be effective 10/1/2013.
Filed Date: 8/5/13.
Accession Number: 20130805–5329.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: RP13–1230–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Non-Conforming Agreements Filing (TEP) to be effective 9/1/2013.
Filed Date: 8/5/13.
Accession Number: 20130805–5342.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: RP13–1231–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Non-Conforming Agreements Filing (UNS Gas) to be effective 9/1/2013.
Filed Date: 8/5/13.
Accession Number: 20130805–5354.
Comments Due: 5 p.m. ET 8/19/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP10–1083–007.
Applicants: Eastern Shore Natural Gas Company.
Description: ACA Compliance Filing—eTariff Viewer Correction to be effective 10/1/2013.
Filed Date: 8/5/13.
Accession Number: 20130805–5256.
Comments Due: 5 p.m. ET 8/19/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 6, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19892 Filed 8–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP13–521–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Application to Abandon a Certain Rate Schedule.
Filed Date: 7/15/13.
Accession Number: 20130715–5227.
Comments Due: 5 p.m. ET 8/15/13.

Docket Numbers: RP13–1232–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Northeast Supply Link Project Initial Rates to be effective 8/19/2013.
Filed Date: 8/7/13.
Accession Number: 20130807–5191.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP11–2400–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.501: Report of Refund Transco's GSS LSS Customers Share of DTI Penalty Revenue 2013.
Filed Date: 8/8/13.
Accession Number: 20130808–5023.
Comments Due: 5 p.m. ET 8/20/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–1105–001.
Applicants: Energy West Development, Inc.
Description: Order No. 587–V Compliance Filing Corrections to be effective 12/1/2012.
Filed Date: 8/7/13.
Accession Number: 20130807–5192.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: RP13–1214–001.
Applicants: Columbia Gas Transmission, LLC.
Description: ACA 2013—Errata to be effective 10/1/2013.
Filed Date: 8/7/13.
Accession Number: 20130807–5086.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: RP13–1215–001.
Applicants: Central Kentucky Transmission Company.
Description: ACA 2013—Errata to be effective 10/1/2013.
Filed Date: 8/7/13.
Accession Number: 20130807–5118.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: RP13–526–001.
Applicants: Gulf South Pipeline Company, LP.
Description: Compliance Filing in RP13–526–000 to be effective 4/1/2014.
Filed Date: 8/7/13.
Accession Number: 20130807–5047.
Comments Due: 5 p.m. ET 8/19/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 8, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19893 Filed 8–15–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9010–6]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed 08/05/2013 Through 08/09/2013.

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20130236, Final EIS, NIH, MD, National Institute of Health Animal Center Master Plan, Review Period Ends: 09/16/2013, Contact: Valerie Nottingham 301–496–7775.

EIS No. 20130237, Final EIS, NMFS, NJ, FEIS Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, Review Period Ends: 10/14/2013, Contact: Aja Szumylo 978–281–9195.

EIS No. 20130238, Draft EIS, USACE, NC, Bogue Banks Coastal Storm Damage Reduction, Comment Period Ends: 09/30/2013, Contact: Eric Gasch 910–251–4553.

EIS No. 20130239, Draft EIS, BLM, USFS, CO, Northwest Colorado Greater Sage-Grouse Draft Resource Management Plan Amendment, Comment Period Ends: 11/13/2013, Contact: Erin Jones 970–244–3008.

The U.S. Department of the Interior's Bureau of Land Management and the U.S. Department of Agriculture's Forest Service are joint lead agencies for the above EIS.

EIS No. 20130240, Draft EIS, USA, AZ, PROGRAMMATIC—Yuma Proving Ground Activities and Operations, Comment Period Ends: 09/30/2013, Contact: Mr. Chuck Wullenjohn 928–328–6189.

EIS No. 20130241, Final EIS, USACE, FL, Tarmac King Road Limestone Mine, Review Period Ends: 09/16/2013, Contact: Edward Sarfert 850–439–9533.

EIS No. 20130242, Final EIS, FHWA, IN, I–69 Evansville to Indianapolis, Indiana Project, Section 5, Bloomington to Martinsville, Contact: Michelle Allen 317- 226–7344.

Under MAP–21 section 1319, FHWA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20130243, Draft EIS, FHWA, DE, US 113 North/South Millsboro South Area, Comment Period Ends: 10/04/2013, Contact: Nick Blendy 302–734–2966.

Dated: August 13, 2013.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2013–20019 Filed 8–15–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: August 12, 2013.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10485	Bank of Wausau	Wausau	WI	8/9/2013

[FR Doc. 2013–19876 Filed 8–15–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

All World Shipping Corp. (NVO), 550 North Reo Street, Suite 300, Tampa, FL 33609, Officers:, Gerald J. DeBow, Treasurer (QI), Ross V. Stemmler, President, Application Type: QI Change.

Dawson Logistics, Inc. (OFF), 2220 South State Route 157, Suite 150, Glen Carbon, IL 62034, Officers:, Jon M. Richardson, Vice President (QI), Douglas Dawson, President, Application Type: New OFF License.

Embarque Laguna LLC (NVO & OFF), 94 Fulton Street, Suite 1–A3, Paterson, NJ 07501, Officer:, Berqui Morel, Managing Member (QI), Application Type: New NVO & OFF License.

Emjay Global LLC (NVO), 82 Alco Place, Halethorpe, MD 21227, Officer:, Olufemi P. Olaomi, Member (QI), Application Type: New NVO License.

Eshipping, LLC (NVO & OFF), 173 English Landing Drive, Suite 210,

Parkville, MO 64152, Officers:, Matthew P. Weiss, Vice President (QI), Chad Earwood, President, Application Type: Add NVO Service.

Fesco Integrated Transport North American, Inc (OFF), 1000 Second Avenue, Suite 1310, Seattle, WA 98104, Officers:, Michael Evans, President (QI), Larry E. Altenbrun, Secretary, Application Type: QI Change.

Force Container Line Limited Liability Company (NVO), 20 Commerce Drive, Suite 135, Cranford, NJ 07016, Officers:, Toni M. Stanislawczyk, Member (QI), Jonathan A. Stanislawezyk, Sr., Member, Application Type: NVO License.

Graceworld Incorporation (NVO & OFF), 14023 Crenshaw Blvd., Suite 6, Hawthorne, CA 90250, Officers:, Tracy Strine, CFO (QI), Ugochukwu O. Ene, President, Application Type: New NVO & OFF License.

Icon Logistics Services LLC (OFF), 14725B Baltimore Avenue, Laurel, MD 20707, Officers:, Gbenga Yinsua, Member (QI), Musiliu Adelaja, Member, Application Type: QI Change.

Inter Shipping Line, Inc. (NVO), 18039 Crenshaw Blvd., Suite 311, Torrance, CA 90504, Officers:, Seung Joon Kim, CEO (QI), Brendan Sheen, CFO, Application Type: QI Change.

King Cargo Corporation (NVO & OFF), 8399 NW 66th Street, Suite 8 & 9, Miami, FL 33166, Officers:, Rafael C. Da Costa, Secretary (QI), Raphael D. Alves, President, Application Type: New NVO & OFF License.

SFS Cargo Express, Inc. (NVO & OFF), 8610 NW. 72nd Street, Miami, FL 33166, Officers:, Yurisnay Leyva, Secretary (QI), Juan C. Sevilla, President, Application Type: New NVO & OFF License.

Share Logistics B.V., LLC dba US Container Line (NVO), Waalhaven Zz 19 Port City II, 3089 JH Rotterdam, Netherlands, Officers:, Dirk (Dik) Biji, Executive Vice President (QI), Johannes (Jan) A. Crezee, President, Application Type: New NVO License.

Shipping Cars R US of South Florida, Inc (OFF), 16411 NW 8th Avenue, Miami, FL 33169, Officers:, Susanne A. Getten, Secretary (QI), Mattias Brannstrom, President, Application Type: New OFF License.

Sobe Enterprises, Inc. dba Sobe Export Services (NVO & OFF), 150 NW 176th Street, Unit C, Miami Gardens, FL 33169, Officers:, Claude Sterling, President (QI), David Desrouleaux, Vice President, Application Type: Add NVO Service.

Topocean Consolidation Service (Los Angeles) Inc. (NVO & OFF), 2727 Workman Mill Road, City of Industry, CA 90601, Officers: Robert Wang, President (QI), Duncan Wright, Vic President, Application Type: Add OFF Service.

Trans-Trade, Inc. dba Trans-Ocean Services, Inc. (NVO & OFF), 1040 Trade Avenue, DFW Airport, TX 75261, Officers:, Scott T. Brinks, President (QI), Brian D. Finkelstein, Secretary, Application Type: Transfer to TransTrade Operators, Inc. dba Trans-Trade, Inc. And QI Change.

West Indies Trade & Consulting, LLC (OFF), 5200 Dallas Highway, Suite 200 #301, Powder Springs, GA 30127, Officers:, Mark Weimann, President (QI), Brad P. Mangus, Owner, Application Type: Add Trade Name Trinity Transport & Logistics.

By the Commission.

Dated: August 12, 2013.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2013–19882 Filed 8–15–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statement and approved collection of information instrument are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

Report title: Information Collections Related to the Gramm-Leach-Bliley (GLB) Act.

Agency form number: FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, and FR 4023.

OMB control number: 7100–0292.

Frequency: On occasion.

Reporters: BHCs, foreign banking organizations (FBOs), state member banks (SMBs), and Savings and Loan Holding Companies (SLHCs).

Annual reporting hours: 1,884 hours.

Estimated average hours per response: FR 4010: BHC and SLHCs 3 hours, FBOs 3.5 hours; FR 4011: 10 hours; FR 4012: BHCs decertified as financial holding companies (FHCs) 1 hour, SLHCs decertified as a FHC 1 hour, FHCs back into compliance—BHC 10 hours; FHCs back into compliance—SLHC 10 hours, FR 4017: 4 hours; FR 4019: Regulatory relief requests 1 hour, Portfolio company notification 1 hour; and FR 4023: 50 hours.

Number of respondents: FR 4010: BHC and SLHCs 29, FBOs 5; FR 4011: 5; FR 4012: BHCs decertified as FHCs 8, SLHCs decertified as a FHC 2, FHCs back into compliance—BHC 17; FHCs back into compliance—SLHC 3, FR 4017: 3; FR 4019: Regulatory relief requests 5, Portfolio company notification 2; FR 4023: 30.

General description of report: The FR 4010 is required to obtain a benefit and is authorized under Section 4(l)(1)(C) of the BHC Act, 12 U.S.C. 1843(l)(l)(C); section 8(a) of the International Banking Act, 12 U.S.C. 3106(a); and sections 225.82 and 225.91 of Regulation Y, 12 CFR 225.82 and 225.91; and section 238.65 of Regulation LL.

The FR 4011 is voluntary and is authorized under Sections 4(j) and 4(k) of the BHC Act, 12 U.S.C. 1843(j) through (k); and sections 225.88, and 225.89, of Regulation Y, 12 CFR 225.88, and 225.89.

The FR 4012 is mandatory and is authorized under Section 4(l)(1) and 4(m) of the BHC Act, 12 U.S.C. 1843(l)(1) and (m); section 10(c)(2)(H) of the Home Owner's Loan Act; section 8(a) of the International Banking Act, 12

U.S.C. 3106(a); and sections 225.83 and 225.93 of Regulation Y, 12 CFR 225.83 and 225.93; and section 238.66(b) of Regulation LL.

The FR 4017 is required to obtain a benefit and is authorized under Section 9 of the Federal Reserve Act, 12 U.S.C. 335; and section 208.76 of Regulation H, 12 CFR 208.76.

The FR 4019 is required to obtain a benefit and is authorized under Section 4(k)(7) of the BHC Act, 12 U.S.C. 1843(k)(7); and sections 225.171(e)(3), 225.172(b)(4), and 225.173(c)(2) of Regulation Y, 12 CFR 225.171(e)(3), 225.172(b)(4), and 225.173(c)(2).

The FR 4023 is mandatory and is authorized under Section 4(k)(7) of the BHC Act, 12 U.S.C. 1843(k)(7); and sections 225.171(e)(4) and 225.175 of Regulation Y, 12 CFR 225.171(e)(4) and 225.175.

For the FR 4010, FR 4011, FR 4017, FR 4019, and information related to a failure to meet capital requirements on the FR 4012, a company may request confidential treatment of the information contained in these information collections pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (FOIA) (5 U.S.C. 552 (b)(4) and (b)(6)). Information related to a failure to meet management requirements on the FR 4012 is confidential and exempt from disclosure under section (b)(4), because the release of this information would cause substantial harm to the competitive position of the entity, and (b)(8) if the information is related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. Since the Federal Reserve does not collect the FR 4023, no issue of confidentiality under the FOIA arises. FOIA will only be implicated if the Board's examiners retained a copy of the records in their examination or supervision of the institution, and would likely be exempt from disclosure pursuant to FOIA (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)).

Abstract: Each BHC or FBO seeking FHC status must file the FR 4010 declaration, which includes information needed to verify eligibility for FHC status. By filing the FR 4011, a requestor may ask the Board to determine that an activity is financial in nature, to issue an advisory opinion that an activity is within the scope of an activity previously determined to be financial in nature, or to approve engagement in an activity complementary to a financial activity. Any FHC ceasing to meet capital or managerial prerequisites for FHC status must notify the Board of the deficiency by filing the FR 4012 and often must submit plans to the Board to cure the deficiency. Any SMB seeking to establish a financial subsidiary must seek the Board's prior approval by submitting the FR 4017. Any FHC seeking to extend the 10-year holding period for a merchant banking investment must submit the FR 4019 to apply for the Board's prior approval, and a FHC also must notify the Board if it routinely manages or operates a portfolio company for more than nine months. All FHCs engaging in merchant banking activities must keep records of those activities, and make them available to examiners as specified in the FR 4023 requirements.

There are no formal reporting forms for these collections of information, which are event generated, though in each case the type of information required to be filed is described in the Board's regulations. These collections of information are required pursuant to amendments made by the GLB Act to the BHC Act or the Federal Reserve Act, or Board regulations issued to carry out the GLB Act.

Current Actions: On May 30, 2013, the Federal Reserve published a notice in the **Federal Register** (78 FR 32387) requesting public comment for 60 days on the extension for three years, with revision, of the FR 4012. The comment period for this notice expired on July 29, 2013. The Federal Reserve did not receive any comments. The revision will be implemented as proposed.

Board of Governors of the Federal Reserve System, August 13, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–19920 Filed 8–15–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 3, 2013.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Jay Charles Erie, Rochester, Minnesota, John Kenneth Erie, Fargo, North Dakota, and Jane Kathryn Erie Moen, Eden Prairie, Minnesota,* as members of the Erie Family Shareholder Group; to retain voting shares of MEDR Bancshares, Inc., and thereby indirectly retain voting shares of American State Bank of Erskine, both in Erskine, Minnesota.

Board of Governors of the Federal Reserve System, August 13, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–19935 Filed 8–15–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than September 12, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *First Florida Bancorp, Inc.,* Destin, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Florida Bank, Destin, Florida.

Board of Governors of the Federal Reserve System, August 13, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board

[FR Doc. 2013–19936 Filed 8–15–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Delegation of Authorities

Notice is hereby given that I have delegated to the Administrator, Centers for Medicare & Medicaid Services (CMS), and the Director, Office of Intergovernmental and External Affairs (OIEA), the authorities under Sections 1701–1704 of the Public Health Service Act (PHSA) [42 U.S.C. 300u—300u–3], as amended.

Notwithstanding actions previously taken pursuant to other similar legal authorities, I hereby affirm and ratify any actions taken by the Administrator, CMS and Director, OIEA, which involved the exercise of the authorities under Sections 1701–1704 of the PHSA [42 U.S.C. 300u—300u–3], as amended, delegated herein prior to the effective date of this delegation of authorities.

Nothing in this delegation of authorities is intended to restrict the exercise of concurrent authorities under other statutory provisions.

This delegation of authorities excludes the authority to issue regulations and to submit reports to Congress.

These authorities shall be exercised under the Department's policy on regulations and the existing delegation of authority to approve and issue regulations.

This delegation of authorities is effective immediately.

These authorities may be re-delegated.

Authority: 44 U.S.C. 3101.

Dated: August 9, 2013.

Kathleen Sebelius,

Secretary.

[FR Doc. 2013–19967 Filed 8–15–13; 8:45 am]

BILLING CODE 4150–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–301, CMS–317, CMS–319, CMS–8003, CMS–10219, CMS–10242, CMS–10178, CMS–2744, CMS–3070, CMS–10479, CMS–10371 and CMS–R–137]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *September 16, 2013:*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Certification of Medicaid Eligibility Quality Control (MEQC) Payment Error Rates; *Use:* These reviews are conducted to determine whether or not the sampled cases meet applicable State Title XIX or XXI eligibility requirements when applicable. The reviews are also used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases. In the Medicaid Eligibility Quality Control (MEQC) system, sampling is the only practical method of validating eligibility of the total caseload and determining the dollar value of eligibility liability errors. Any attempt to make such validations and determinations by reviewing every case would be an enormous and unwieldy undertaking. During each 6-month review period, states are required to collect data on eligibility payment error dollars and paid claims dollars for each case in the sample. States must also identify cases for which a review cannot be conducted. At the conclusion of the 6-month review period, states must complete the Payment Error Rate form which contains aggregate data on

sample size, number of sampled cases dropped, and number of sampled cases listed in error.

These data, along with the calculated eligibility payment error rate and lower limit are certified by the State Medicaid Director (or designee) and submitted to the Regional Office. The collection of information is also necessary to implement provisions from the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (Pub. L. 111–3) with regard to the MEQC and Payment Error Rate Measurement (PERM) programs. *Form Number:* CMS–301 (OCN: 0938–0246); *Frequency:* Semi-Annually; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 102; *Total Annual Hours:* 16,446. (For policy questions regarding this collection contact Monetha Dockery at 410–786–0155.)

2. *Type of Information Collection Request:* Reinstatement of previously approved collection; *Title of Information Collection:* State Medicaid Eligibility Quality Control (MEQC) Sample Plans; *Use:* The Medicaid Eligibility Quality Control (MEQC) system is based on monthly state reviews of Medicaid and Medicaid expansion under Title XXI cases by states performing the traditional sampling process identified through statistically reliable statewide samples of cases selected from the eligibility files. These reviews are conducted to determine whether or not the sampled cases meet applicable state Title XIX or XXI eligibility requirements when applicable. The reviews are also used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases. In the MEQC system, sampling is the only practical method of validating eligibility of the total caseload and determining the dollar value of eligibility liability errors. Any attempt to make such validations and determinations by reviewing every case would be an enormous and unwieldy undertaking. In 1993, we implemented MEQC pilots in which states could focus on special studies, targeted populations, geographic areas or other forms of oversight with our approval. States must submit a sampling plan, or pilot proposal for us to approve before implementing their pilot program. The Children's Health Insurance Program Reauthorization Act (CHIPRA) was enacted February 4, 2009. Sections 203 and 601 of the CHIPRA relate to MEQC. Section 203 of the CHIPRA establishes an error rate measurement with respect to the enrollment of children under the express lane eligibility option. The law directs states not to include children enrolled using the express lane eligibility option in data or samples used for purposes of complying with the MEQC requirements. Section 601 of the CHIPRA, among other things, requires a new final rule for the Payment Error Rate Measurement (PERM) program and aims to harmonize the PERM and MEQC programs and provides states with the option to apply PERM data resulting from its eligibility reviews for meeting MEQC requirements and vice versa, with certain conditions. We review, either directly or through its contractors, of the sampling plans helps to ensure states are using valid statistical methods for sample selection. *Form Number:* CMS–317 (OCN: 0938–0148); *Frequency:* Semi-Annually; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 10; *Total Annual Responses:* 20; *Total Annual Hours:* 480. (For policy questions regarding this collection contact Monetha Dockery at 410–786–0155.)

3. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* State Medicaid Eligibility Quality Control (MEQC) Sample Selection Lists; *Use:* The Medicaid Eligibility Quality Control (MEQC) system is based on monthly state reviews of Medicaid and Medicaid expansion under Title XXI cases by states performing the traditional sampling process identified through statistically reliable statewide samples of cases selected from the eligibility files. These reviews are conducted to determine whether or not the sampled cases meet applicable state Title XIX or XXI eligibility requirements when applicable. The reviews are also used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases. In the MEQC system, sampling is the only practical method of validating eligibility of the total caseload and determining the dollar value of eligibility liability errors. Any attempt to make such validations and determinations by reviewing every case would be an enormous and unwieldy undertaking. At the beginning of each month, state agencies still performing the traditional sample are required to submit sample selection lists which identify all of the cases selected for review in the states' samples. The sample selection lists contain identifying information on Medicaid beneficiaries such as: state agency review number, beneficiary's name and address, the name of the county where the beneficiary resides, Medicaid case number, etc. The submittal of the sample selection lists is necessary for Regional Office validation of state reviews. Without these lists, the integrity of the sampling results would be suspect and the Regional Offices would have no data on the adequacy of the States' monthly sample draw or review completion status. The authority for collecting this information is Section 1903(u) of the Social Security Act. The specific requirement for submitting sample selection lists is described in regulations at 42 CFR 431.814(h). Regional Office staff review the sample selection lists to determine that states are sampling a sufficient number of cases for review. *Form Number:* CMS–319 (OCN: 0938–0147); *Frequency:* Monthly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 10; *Total Annual Responses:* 120; *Total Annual Hours:* 960. (For policy questions regarding this collection contact Monetha Dockery at 410–786–0155.)

4. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* 1915(c) Home and Community Based Services (HCBS) Waiver; *Use:* We will use the web-based application to review and adjudicate individual waiver actions. The web-based application will also be used by states to submit and revise their waiver requests. *Form Number:* CMS–8003 (OCN: 0938–0449); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 47; *Total Annual Responses:* 71; *Total Annual Hours:* 6,005. (For policy questions regarding this collection contact Kathy Poisal at 410–786–5940.)

5. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Healthcare Effectiveness Data and Information Set (HEDIS®) Data Collection for Medicare Advantage; *Use:* We use the data in the Healthcare Effectiveness Data and Information Set (HEDIS®) to: monitor Medicare Advantage organization performance, inform audit strategies, and inform beneficiary choice through their display in our consumer-oriented public compare tools and Web sites. Medicare Advantage organizations use the data for quality assessment and as part of their quality improvement programs and activities. Quality Improvement Organizations and our contractors use HEDIS® data in conjunction with their statutory authority to improve quality of care, and consumers who are making informed health care choices. In addition, we

make health plan level HEDIS® data available to researchers and others as public use files at *www.cms.hhs.gov. Form Number:* CMS–10219 (OCN: 0938–1028); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 576; *Total Annual Responses:* 576; *Total Annual Hours:* 184,320. (For policy questions regarding this collection contact Lori Teichman at 410–786–6684.)

6. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Emergency and Non-Emergency Ambulance Transports and Beneficiary Signature Requirements in 42 CFR 424.36(b); *Use:* Ambulance providers and suppliers are the primary information users. Specifically, when ambulance providers and suppliers sign claims on behalf of beneficiaries they are required by § 424.36(b)(6) to keep certain documentation in their files for at least four years from the date of service. The purpose of this information collection is to document emergency and nonemergency ambulance transports where the beneficiary was incapable of signing the claim and the ambulance provider or supplier signed the claim on the beneficiary's behalf. The information may also be used by: (1) Our Part A and Part B Medicare Administrative Contractors that process and pay ambulance claims; (2) our staff who review and audit claims for medical necessity; (3) our staff who review claims for overpayments; and (4) by others who investigate ambulance billing practices to ensure compliance under the False Claims Act and anti-kickback statute. Therefore, besides ambulance providers and suppliers, the information collected may be used by CMS, the Office of the General Counsel, the Office of the Inspector General, the Department of Justice, and the Federal Bureau of Investigations. *Form Number:* CMS–10242 (OCN: 0938–1049). *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 11,564; *Total Annual Responses:* 15,633,781; *Total Annual Hours:* 1,303,857. (For policy questions regarding this collection contact David Walczak at 410–786–4475.)

7. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Medicaid and Children's Health Insurance (CHIP) Managed Care Claims and Related Information; *Use:* The Payment Error Rate Measurement (PERM) program measures improper payments for Medicaid and the State Children's Health Insurance Program (SCHIP). The program was designed to comply with the Improper Payments Information Act (IPIA) of 2002 and the Office of Management and Budget (OMB) guidance. Although OMB guidance requires error rate measurement for SCHIP, 2009 SCHIP legislation temporarily suspended PERM measurement for this program and changed to Children's Health Insurance Program (CHIP) effective April 01, 2009. See Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) Public Law 111–3 for more details. There are two phases of the PERM program, the measurement phase and the corrective action phase. PERM measures improper payments in Medicaid and CHIP and produces state and national-level error rates for each program. The error rates are based on reviews of Medicaid and CHIP fee-for-service (FFS) and managed care payments made in the Federal fiscal year under review. States conduct eligibility reviews and report eligibility related payment error rates also used in the national error rate calculation. We created a 17 state rotation cycle so that each state will participate in PERM once every three years. We need to collect capitation payment information from the selected states so that the federal contractor can draw a sample and review the managed care capitation payments. We will also collect state managed care contracts, rate schedules and updates to the contracts and rate schedules. This information will be used by the Federal contractor when conducting the managed care claims reviews. Sections 1902(a)(6) and 2107(b)(1) of the Social Security Act grants us authority to collect information from the States. The IPIA requires us to produce national error rates in Medicaid and CHIP fee-for-service, including the managed care component. The state-specific Medicaid managed care and CHIP managed care error rates will be based on reviews of managed care capitation payments in each program and will be used to produce national Medicaid managed care and CHIP managed care error rates. *Form Number:* CMS–10178 (OCN: 0938–0994); *Frequency:* Occasionally; Affected *Public:* State, Local, or Tribal Governments; *Number of Respondents:* 34; *Total Annual Responses:* 2040; *Total Annual Hours:* 28,050. (For policy questions regarding this collection contact Monetha Dockery at 410–786–0155.)

8. *Type of Information Collection Request:* Revision of a previously approved collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Medical Information Facility Survey; *Use:* The End Stage Renal Disease (ESRD) Medical Information Facility Survey form (CMS–2744) is completed annually by Medicare-approved providers of dialysis and transplant services. The CMS–2744 is designed to collect information concerning treatment trends, utilization of services and patterns of practice in treating ESRD patients. The information is used to assess and evaluate the local, regional and national levels of medical and social impact of ESRD care and is used extensively by researchers and suppliers of services for trend analysis. The information is available on our Dialysis Facility Compare Web site and will enable patients to make informed decisions about their care by comparing dialysis facilities in their area. *Form Number:* CMS–2744 (OCN: 0938–0447); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 5,964; *Total Annual Responses:* 5,964; *Total Annual Hours:* 47,712. (For policy questions regarding this collection contact Michelle Tucker at 410–786–0736.)

9. *Type of Information Collection Request:* Reinstatement with change of a currently approved collection; *Title of Information Collection:* Intermediate Care Facility (ICF) for the Mentally Retarded (MR) or Persons with Related Conditions Survey Report Form; *Use:* This survey form is needed to ensure intermediate care facility (ICF) for the mentally retarded (MR) provider and client characteristics are available and updated annually for the federal government's Online Survey Certification and Reporting (OSCAR) system. It is required for the provider to fill out at the time of the annual recertification or initial certification survey conducted by the state Medicaid agency. The team leader for the state survey team must review and approve the completed form before completion of the survey. The state Medicaid survey agency is responsible for transferring the 3070 information into OSCAR. *Form Number:* CMS–3070 (OCN: 0938–0062); *Frequency:* Reporting—Yearly; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 6,446; *Total Annual Responses:* 6,446; *Total Annual Hours:* 19,388. (For policy questions regarding this collection contact Adrienne Rogers at 410–786–3411.)

10. *Type of Information Collection Request:* New Collection (Request for a new OMB control number); *Title of*

Information Collection: Evaluation of the Multi-Payer Advanced Primary Care Practice (MAPCP) Demonstration Focus Group Protocols; *Use:* On September 16, 2009, the Department of Health and Human Services announced the establishment of the Multi-payer Advanced Primary Care Practice (MAPCP) Demonstration, under which Medicare joined Medicaid and private insurers as a payer participant in state-sponsored patient-centered medical home (PCMH) initiatives. We selected eight states to participate in this demonstration: Maine, Vermont, Rhode Island, New York, Pennsylvania, North Carolina, Michigan, and Minnesota. We are proposing to conduct in-person focus groups with Medicare and Medicaid beneficiaries and their caregivers to more thoroughly understand patients' experiences with their PCMHs and how well their PCMHs are serving their needs.

The focus groups will provide us with answers to fundamental ''what, how, and why'' questions about beneficiaries' experiences with care and access to and coordination of care. We will use the information obtained via in-person, focus groups for the evaluation of the MAPCP Demonstration. The focus group data will be collected to supplement other qualitative and quantitative analyses from primary and secondary data sources by providing data on context, structure, and process, as well as select aspects of the key outcomes. The data gathered from the interviews will allow for more complete interpretation of the quantitative claims and other data analysis by taking into account the unique perspectives of beneficiaries. Subsequent to the publication of the 60-day **Federal Register** notice (April 29, 2013; 78 FR 25089), the protocols have been revised by adding, revising and/or deleting questions. *Form Number:* CMS–10479 (OCN: 0938–NEW); *Frequency:* Annually; *Affected Public:* Individuals and households; *Number of Respondents:* 768; *Total Annual Responses:* 384; *Total Annual Hours:* 1,152. (For policy questions regarding this collection contact Suzanne Wensky at 410–786–0226.)

11. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges; *Use:* All states (including the 50 states, consortia of states, Territories, and the District of Columbia herein referred to as States) that received a State Planning and Establishment Grant for Affordable Care Act's (ACA) Exchanges are eligible for the Cooperative Agreement to Support Establishment of State Operated Insurance Exchanges. Section 1311 of the Affordable Care Act offers the opportunity for each State to establish an Exchange [now referred to as Marketplace], and provides for grants to States for the planning and establishment of these Exchanges. Given the innovative nature of Exchanges and the statutorily-prescribed relationship between the Secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, Federal requirements, and goals of the statute.

In order to provide appropriate and timely guidance and technical assistance, the Secretary must have access to timely, periodic information regarding State progress. Consequently, the information collection associated with these grants is essential to facilitating reasonable and appropriate federal monitoring of funds, providing statutorily-mandated assistance to States to implement Exchanges in accordance with Federal requirements, and to ensure that States have all necessary information required to proceed, such that retrospective corrective action can be minimized.

The submitted revision adds sets of Outcomes and Operational Metrics to States' data collection requirements; we will use the resulting data to evaluate Marketplace performance and overall effectiveness of the ACA. Key areas of measurement are the effectiveness of eligibility determination and enrollment processes, impact on affordability for consumers, and the effect of Marketplace participation on health insurances markets. Furthermore, these metrics facilitate actionable feedback and technical assistance to States for quality improvement efforts during the critical early period of operations. This funding opportunity was first released on January 20, 2011. *Form Number:* CMS–10371 (OCN: 0938–0119); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 40; *Total Annual Responses:* 1,475; *Total Annual Hours:* 64,695. (For policy questions regarding this collection contact Christina Daw at 301–492–4181.)

12. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Internal Revenue Service (IRS)/Social Security Administration (SSA)/Centers for Medicare and Medicaid Services (CMS) Data Match and Supporting Regulations; *Use:* Medicare Secondary Payer (MSP) is essentially the same concept known in the private insurance industry as coordination of benefits; it refers to those situations where Medicare assumes a secondary payer role to certain types of private insurance for covered services provided to a Medicare beneficiary.

Congress sought to reduce the losses to the Medicare program by requiring in 42 U.S.C. 1395y(b)(5) that the Internal Revenue Service (IRS), the Social Security Administration (SSA), and we perform an annual data match (the IRS/SSA/CMS Data Match, or ''Data Match'' for short). We use the information obtained through Data Match to contact employers concerning possible application of the MSP provisions by requesting information about specifically identified employees (either a Medicare beneficiary or the working spouse of a Medicare beneficiary). This statutory data match and employer information collection activity enhances our ability to identify both past and present MSP situations. *Form Number:* CMS–R–137 (OCN: 0938–0565); *Frequency:* Annually; *Affected Public:* Business or other for-profit and Not-for-profit institutions, State, Local or Tribal Governments; *Number of Respondents:* 280,028; *Total Annual Responses:* 280,028; *Total Annual Hours:* 1,629,763. (For policy questions regarding this collection contact Rick Mazur at 410–786–1418.)

Dated: *August 13, 2013.*

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–20023 Filed 8–15–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10190, CMS–R–52, CMS–10492 and CMS–10416]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect

information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 15, 2013:

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10190 State Plan Preprints to Implement Sections 6083, 6036, 6041, 6042, 6043, and 6044 of the Deficit Reduction Act (DRA) of 2005

CMS–R–52 Conditions for Coverage of Suppliers of End Stage Renal Disease (ESRD) Services and Supporting Regulations

CMS–10492 Data Submission for the Federally-facilitated Exchange User Fee Adjustment

CMS–10416 Blueprint for Approval of Affordable Health Insurance Marketplaces

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information* Collection: State Plan Preprints to Implement Sections 6083, 6036, 6041, 6042, 6043, and 6044 of the Deficit Reduction Act (DRA) of 2005; *Use:* State Medicaid agencies will complete the templates. We will review the information to determine if the state has met all of the DRA requirements that the state has chosen to implement. If the requirements are met, we will approve the amendments to the state's Title XIX plan giving the state the authority to implement the flexibilities. For a state to receive Medicaid Title XIX funding, there must be an approved Title XIX state plan. With respect to section 6043, if a state adopts the cost-sharing provision for the non-emergency use of an emergency room, a hospital will be required to inform a beneficiary of the cost of the copayment and the availability of the service at a lesser or nearly no co-pay facility. That hospital will coordinate the referral. *Form Number:* CMS–10190 (OCN: 0938–0993); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits, Not-for-profit institutions, and State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 4,016; *Total Annual Hours:* 699. (For policy questions regarding this collection contact Rhonda Simms at 410–786–1200.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions for Coverage of Suppliers of End Stage Renal Disease (ESRD) Services and Supporting Regulations; *Use:* The information collection requirements described herein are part of the Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities. The requirements fall into two categories: Record keeping requirements and reporting requirements. With regard to the record keeping requirements, we use these conditions for coverage to certify health care facilities that want to participate in the Medicare or Medicaid programs. For the reporting requirements, the information is needed to assess and ensure proper distribution and effective utilization of ESRD treatment resources while maintaining or improving quality of care. The recordkeeping requirements imposed by this collection are no different than other conditions for coverage in that they reflect comparable standards developed by industry organizations such as the Renal Physicians Association, American Society of Transplant Surgeons, National Kidney Foundation, and the National Association of Patients on Hemodialysis and Transplantation. *Form Number:* CMS–R–52 (OCN: 0938–0386); *Frequency:* Annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 6,464; *Total Annual Responses:* 139,110; *Total Annual Hours:* 523,454. (For policy questions regarding this collection contact Lauren Oviatt at 410–786–4683.)

3. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Data Submission for the Federally-facilitated Exchange User Fee Adjustment; *Use:* The final rule ''Coverage of Certain Preventive Services Under the

Affordable Care Act'' published by the Departments of Health and Human Services (HHS), the Treasury, and Labor on July 2, 2013 (78FR 39870), sets forth regulations regarding coverage for certain preventive services under section 2713 of the Public Health Service Act, as added by the Patient Protection and Affordable Care Act, as amended, and incorporated into the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code. Section 2713 of the Public Health Service Act requires coverage without cost sharing of certain preventive health services, including certain contraceptive services, in non-exempt, non-grandfathered group health plans and health insurance coverage. The final rule establishes accommodations with respect to group health plans established or maintained by eligible organizations (and group health insurance coverage offered in connection with such plans).

Eligible organizations are required to self-certify that they are eligible for this accommodation and provide a copy of such self-certification to their third party administrators. The final rule also set forth processes and standards to fund the payments for the contraceptive services that are provided for participants and beneficiaries in self-insured plans of eligible organizations under the accommodation described previously, through an adjustment in the Federally-facilitated Exchange (FFE) user fee payable by an issuer participating in an FFE.

In order to facilitate the FFE user fee adjustment, and ensure that these user fee adjustments reflect payments for contraceptive services provided under this accommodation and that the adjustment is applied to the appropriate participating issuer in an FFE, the final rule requires an information collection from applicable participating issuers and third party administrators. In particular, the final regulations at 45 CFR 156.50(d)(2)(i) provides that a participating issuer who seeks an FFE user fee adjustment must submit to HHS in the year following the benefit year in which payments for contraceptive services were made under the previously mentioned accommodation, identifying information for the participating issuer, each third party administrator, and each self-insured group health plan, as well as the total dollar amount of the payments for contraceptive services that were provided during the applicable calendar year under the accommodation. The final regulation at 45 CFR 156.50(d)(2)(iii) also requires the third party administrator to submit to HHS identifying information for the third party administrator, the participating issuer, and each self-insured group health plan, as well as the total number of participants and beneficiaries in each self-insured group health plan during the applicable calendar year, the total dollar amount of payments made for contraceptive services, and an attestation that the payments for contraceptive services were made in compliance with 26 CFR 54.9815–2713A(b)(2) or 29 CFR 2590.715–2713A(b)(2).

Furthermore, to determine the potential number of submissions provided by third party administrators and allow HHS to prepare to receive submissions in calendar year 2015, the final regulation at 45 CFR 156.50(d)(2)(ii) requires third party administrators to submit to HHS a notification that the third party administrator intends for a participating issuer to seek an FFE user fee adjustment, by the later of January 1, 2014, or the 60th calendar day following the date on which the third party administrator receives a copy of a self-certification from an eligible organization.

The burden associated with these processes includes the time for applicable participating issuers and third party administrators to submit identifying information and total payments made for contraceptive services in the prior calendar year. HHS is unable to estimate the number of organizations that will seek user fee adjustments and seeks comments on this number in this notice. We anticipate that participating issuers in an FFE seeking a user fee adjustment and third party administrators with respect to which the FFE user fee adjustment is received will submit this information electronically. *Form Number:* CMS–10492 (OCN: 0938–NEW); *Frequency:* Once, Yearly; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 10; *Total Annual Responses:* 1; *Total Annual Hours:* 8. (For policy questions regarding this collection contact Ariel Novick at 301–492–4309.)

4. *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* Blueprint for Approval of Affordable Health Insurance Marketplaces; *Use:* All states (including the 50 States, and the District of Columbia herein referred to as states) have the opportunity under Section 1311(b) of the Affordable Care Act to establish an Exchange (referred to herein as Marketplace). The original information collection request for the State Marketplace Blueprint Data Collection Tool specified a single reporting tool for all the various Marketplace types. This request revises the collection process by having separate collection tools for each type of Marketplace with the goal of reducing the burden. Also, at the time of the original request, the tool was partially paper-based. During the intervening time, we have has completed the on-line implementation of the tool and will transition all future applications to that system.

Given the innovative nature of Marketplaces and the statutorily-prescribed relationship between the secretary and states in their development and operation, it is critical that the Secretary work closely with states to provide necessary guidance and technical assistance to ensure that states can meet the prescribed timelines, federal requirements, and goals of the statute.

States seeking to establish a Marketplace must build a Marketplace that meets the requirements set out in section 1311(d) of the Affordable Care Act and 45 CFR 155.105. In order to ensure that a state seeking approval as a State-based Marketplace, State-based SHOP, or State Partnership Marketplace in the Federally-facilitated Marketplace meet all applicable requirements, the Secretary will require a state to submit a Blueprint for approval and to demonstrate operational readiness through virtual or on-site readiness review. Submission of the Blueprint Application will be online. *Form Number:* CMS–10416 (OCN: 0938–1172); *Frequency:* Once; *Affected Public:* State, Local, or Tribal governments; *Number of Respondents:* 51; *Number of Responses:* 63; *Total Annual Hours:* 11,283. (For policy questions regarding this collection contact Sarah Summer 301–492–4443.)

Dated: August 13, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–19963 Filed 8–15–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Interstate Administrative Subpoena.

OMB No.: 0970–0152.

Description: Section 452(a)(11) of the Social Security Act requires the Secretary of the Department of Health and Human Services to promulgate a form for administrative subpoenas to be used in State child support enforcement programs to collect information for use in the establishment, modification and enforcement of child support orders in interstate cases. Section 454(9)(E) of the Social Security Act requires each State to cooperate with any other State in using the federal form for issuance of administrative subpoenas in interstate child support cases. Tribal IV–D agencies are not required to use this form but may choose to do so.

Respondents: State, local or Tribal agencies administering a child support enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Administrative Subpoena	53,488	1	0.50	26,744

Estimated Total Annual Burden Hours: 26,744.

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–19921 Filed 8–15–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Job Search Assistance (JSA) Strategies Evaluation.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) is proposing an information collection activity as part of the Job Search Assistance (JSA) Strategies Evaluation. The proposed information collection consists of semi-structured interviews with key respondents involved with job search assistance programs in states and localities. Through this information collection and other study activities, ACF seeks to identify the types of job search assistance strategies that should be tested within the context of current TANF policies and requirements.

Respondents: State and local TANF administrators, program staff, and stakeholders such as researchers and policy experts.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Discussion Guide for Use with Researchers and Policy Experts	15	8	1	1	8
Discussion Guide for use with State and Local TANF Administrators	35	18	1	2.5	45
Discussion Guide for Use with Program Staff	50	25	1	2	50

Estimated Total Annual Burden Hours: 103.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,*

Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

ACF Reports Clearance Officer.

[FR Doc. 2013–19929 Filed 8–15–13; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0380]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by September 16, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0523. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3794, *Jonnalynn.capezzuto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications—(OMB Control Number 0910–0523)—Extension

This regulation relates to Agency management and organization and has two purposes. The first is to implement section 503(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)), as added by the Safe Medical Devices Act of 1990 (Pub. L. 101–629), and amended by the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), by specifying how FDA will determine the organizational component within FDA assigned to have primary jurisdiction for the premarket review and regulation of products that are comprised of any combination of: (1) A drug and a device; (2) a device and a biological product; (3) a biological product and a drug; or (4) a drug, a device, and a biological product. The second purpose of this regulation is to enhance the efficiency of Agency management and operations by providing procedures for classifying and determining which Agency component is designated to have primary jurisdiction for any drug, device, or biological product where such jurisdiction is unclear or in dispute.

The regulation establishes a procedure by which an applicant may obtain an assignment or designation determination. The regulation requires that the request include the identity of the applicant, a comprehensive description of the product and its proposed use, and the applicant's recommendation as to which Agency component should have primary jurisdiction, with an accompanying statement of reasons. The information submitted would be used by FDA as the basis for making the assignment or designation decision. Most information required by the regulation is already required for premarket applications affecting drugs, devices, biological products, and combination products. The respondents will be businesses or other for-profit organizations.

In the **Federal Register** of May 2, 2013 (78 FR 25746), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Part	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Part 3	59	1	59	24	1,416

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These burden estimates are based on the number of applications FDA received over the past 2 fiscal years.

Dated: August 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–19916 Filed 8–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: October 11, 2013.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: Cancer Communication for Prevention: In the Digital Commons, Opportunities Amongst the Challenges.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C–Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Abby B. Sandler, Ph.D., Executive Secretary, President's Cancer Panel, Special Assistant to the Director, NCI

Center for Cancer Research, 9000 Rockville Pike, Building 31, Room B2B37, MSC 2590, Bethesda, MD 20892–8349, (301) 451–9399, *sandlera@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/pcp/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 8, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19902 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE REVIEW.

Date: October 1–2, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20812.

Contact Person: Wlodek Lopaczynski, MD, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W608, Bethesda, MD 20892, 240–276–6458, *lopacw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus Cancer Biology 3.

Date: October 3–4, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Shakeel Ahmad, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Bethesda, MD 20892–8328, 240–276–6349, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Drug Development and Discovery.

Date: October 16–17, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Dr. Room 7W120, Bethesda, MD 20892, 240–276–6457, *mh101v@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Utilizing the PLCO Biospecimens Resource to Bridge Gaps in Cancer Etiology and Early Detection.

Date: October 16, 2013.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 1W030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Gerald G. Lovinger, Ph.D., Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W266, Bethesda, MD 20892–9750, 240–276–6385, *lovingeg@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Research Answers to NCI's Provocative Questions—Group A.

Date: October 17–18, 2013.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Sonya Roberson, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892, 240–276–6347, *robersos@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Awards for Research on Imaging and Biomarkers for Early Cancer Detection (U01).

Date: October 21, 2013.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 3W034, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Kenneth L. Bielat, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Bethesda, MD 20892–8329, 240–276–6373, *bielatk@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee J—Career Development.

Date: October 24–25, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 7W032—24th & 7W30–25th, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Ilda F.S. Melo, Ph.D., Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W640, Bethesda, MD 20892, 240–276–6468, *mckennai@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Core Infrastructure and Methodological Research for Cancer Epidemiology Cohorts.

Date: October 25, 2013.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 2W904, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Kenneth L. Bielat, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Bethesda, MD 20892–8329, 240–276–6373, *bielatk@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Omnibus R03/R21: Tumor Immunology.

Date: November 6–7, 2013.

Time: 6:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Robert Bird, Ph.D., Chief, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Bethesda, MD 20892–8328, 240–276–6344, *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Small Grants Program (Omnibus).

Date: November 7, 2013.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 7W034, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Viatcheslav A. Soldatenkov, MD, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Bethesda, MD 20892–8329, 240–276–6378, *soldatenkovv@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Therapy.

Date: December 3, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 7W034, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Ilda F. S. Melo, Ph.D., Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W640, Bethesda, MD 20892, 240–276–6468, *mckennai@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 8, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19903 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Child Psychopathology.

Date: September 11, 2013.

Time: 9:00 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stacey FitzSimmons, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, 301–451–9956, *fitzsimmonss@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Risk and Disease Prevention Study Section.

Date: September 16–17, 2013.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Stacey FitzSimmons, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, 301–451–9956, *fitzsimmonss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Translational Research in Pediatric and Obstetric Pharmacology (PAR11–246/248).

Date: September 17, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Members Conflicts: Biomaterials, Nanotechnology, Drug Screening and Delivery, Bioengineering Sciences.

Date: September 17, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Myalgic Encephalomyelitis/Chronic Fatigue Syndrome.

Date: September 17, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Lynn E Luethke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323, *luethkel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Drugs and Alcohol.

Date: September 18–19, 2013.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *selmanom@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genes, Genomes, Genetics Member SEP.

Date: September 19, 2013.

Time: 3:45 p.m. to 4:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael M. Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 12, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19895 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is

hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.

Date: September 9, 2013.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Report of the Director, NIDCR.

Place: National Institutes of Health, Building 31C, Conference Room 10, 31 Center Drive, 6th Floor, Bethesda, MD 20892.

Closed: 1:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31C, Conference Room 10, 31 Center Drive, 6th Floor, Bethesda, MD 20892.

Contact Person: Alicia J. Dombroski, Ph.D., Director, Division of Extramural Activities, Natl Inst of Dental and Craniofacial Research, National Institutes of Health Bethesda, MD 20892.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 8, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19900 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–12–101: Hearing Health Care Outcomes.

Date: August 21, 2013.

Time: 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lynn E Luethke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323, *luethkel@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 8, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19897 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: September 17–18, 2013.

Open: September 17, 2013, 1:00 p.m. to 5:15 p.m.

Agenda: Discussion of Program Policies and Issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, C Wing, Room 6, Bethesda, MD 20892.

Closed: September 18, 2013, 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, C Wing, Room 6, Bethesda, MD 20892.

Contact Person: Ann R. Knebel, DNSC, RN, FAAN Deputy Director, National Institute of Nursing Research, National Institutes of Health, 31 Center Drive, Building 31, Room 5B05, Bethesda, MD 20892, 301–594–1580, *bryany@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nih.gov/ninr/a_advisory.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: August 12, 2013.

Michelle D. Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19901 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: September 17–18, 2013.

Closed: September 17, 2013, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Open: September 18, 2013, 8:00 a.m. to 1:15 p.m.

Agenda: Call to order and report from the Director; discussion of future meeting dates; Consideration of minutes from the last meeting; reports from the Task Force on Minority Aging Research, Council of Councils, Working Group on Program; Remarks from retiring Council members; Council speaker; Preliminary report of Behavioral and Social Research Division; Program Highlights.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Robin Barr, Ph.D., Director, National Institute on Aging, Office of Extramural Activities, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *barrr@nia.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *www.nih.gov/nia/naca/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 12, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19898 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the NCI-Frederick Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: NCI-Frederick Advisory Committee.

Date: September 24, 2013.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: Discussion of proposed Frederick National Laboratory for Cancer Research Strategic Plan; Proposed Organizational Change: Division of Extramural Activities.

Place: Frederick National Laboratory for Cancer Research, Advanced Technology Research Facility (ATRF), Room E1600, 8560 Progress Drive, Frederick, MD 21702.

Contact Person: Thomas M. Vollberg, Sr., Ph.D., Executive Secretary, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W–102, Bethesda, MD 20892, (240) 276–6341.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

The ATRF is located at 8560 Progress Drive, Frederick, MD 21701 and their Web site is: *http://ncifrederick.cancer.gov/About/Atrf/Default.aspx.*

Directions/Parking

For a map and directions, please visit *http://ncifrederick.cancer.gov/About/AtrfDirections.aspx.* [Note: Due to the newness of the roads, many GPS systems do not recognize this address and may only guide you to Progress Drive.] Enter the park via Progress Drive off of Monocacy Boulevard. Continue on Progress Drive through the traffic circle to the visitor's parking lot (three flag poles in this lot). Space in the parking lot is somewhat limited, and street parking on Progress Drive may also be used by visitors. Please check in with Protective Services at the front desk or meeting registration desk if applicable, upon entry into the building. You will need to provide valid identification.

When available, an agenda and any additional information for the meeting will be posted at: *http://deainfo.nci.nih.gov/advisory/fac/fac.htm.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 8, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19904 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee to the Director, National Institutes of Health. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended because the premature disclosure of grant

applications and the discussions would likely to significantly frustrate implementation of recommendations.

Name of Committee: Advisory Committee to the Director, National Institutes of Health.

Date: September 3, 2013.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications for the Pioneer and New Innovator Awards.

Place: National Institutes of Health, Building 1, 126, 1 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 103, Bethesda, MD 20892, 301–496–4272, *woodgs@od.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://acd.od.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 12, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19896 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Pain and Chemosensory Neuroscience.

Date: August 27–28, 2013.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instruments: Mass Spectrometers.

Date: September 10–11, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation: Ultrasound and Optical.

Date: September 10, 2013.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Jan Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, Bethesda, MD 20892, 301–435–1049, *lij21@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Prevention and Treatment.

Date: September 10, 2013.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *ngkl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Investigations on Primary Immunodeficiency Diseases.

Date: September 10, 2013.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, 301–495–1506, *jakesse@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: September 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 8, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19905 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Center for Advancing Translational Sciences.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cures Acceleration Network Review Board.

Date: September 16, 2013.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: Report from the Institute Director.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Advisory Council.

Date: September 16, 2013.

Open: 8:30 a.m. to 2:30 p.m.

Agenda: Report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Closed: 2:45 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

Dated: August 8, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19899 Filed 8–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Cross-site Evaluation of the Garrett Lee Smith Memorial Suicide Prevention and Early Intervention Programs (OMB No. 0930–0286)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) will continue to conduct the cross-site evaluation of the Garrett Lee Smith Memorial Youth Suicide Prevention and Early Intervention State/Tribal Programs and the Garrett Lee Smith Memorial Youth Suicide Prevention Campus Programs. The data collected through the cross-site evaluation addresses four stages of program activity: (1) The context stage includes a review of program plans, such as grantee's target population, target region, service delivery mechanisms, service delivery setting, types of program activities to be funded and evaluation activities; (2) the product stage describes the prevention strategies that are developed and utilized by grantees; (3) the process stage assesses progress on key activities and milestones related to implementation of program plans; and (4) the impact [1] stage assesses the impact of the program on early identification, referral for services, and service follow-up of youth at risk.

To date, 147 State/Tribal cooperative agreement awardees and 153 Campus grantees have participated in the cross-site evaluation since FY 2005. Currently, 61 State/Tribal cooperative agreement awardees and 60 Campus grantees are participating in the cross-site evaluation. Data will continue to be collected from suicide prevention program staff (e.g., project directors, evaluators), key program stakeholders (e.g., state/local officials, child-serving agency directors, gatekeepers, mental health providers, and campus administrators), training participants, college students, and campus faculty/staff through FY2016.

Since the State/Tribal grantees differ from the Campus grantees in programmatic approaches, specific data collection activities also vary by type of program. The following describes the specific data collection activities and data collection instruments to be used across State/Tribal and Campus grantees for the cross-site evaluation. While most of the data collection instruments described below are revised versions of instruments that have previously received Office of Management and Budget approval (OMB No. 0930–0286 with Expiration Date: August 2013) and are currently in use, new instruments include:

- The Training Utilization and Preservation—Survey (TUP–S): 6-Month Follow-up, Adolescent, and Campus Versions
- The Life skills Activities Follow-up Interview (LAI)
- The Coalition Survey
- The Coalition Profile
- The Short Message Service Survey (SMSS)
- The Student Awareness Intercept Survey (SAIS)

The addition of these new data collection activities does not increase the burden associated with the cross-site evaluation because several lengthy instruments, as well as campus case studies, have been removed from the data collection protocol. A summary table of the number of respondents and respondent burden has also been included.

Previously approved instruments that have been removed include:

- The Training Exit Survey (TES) Individual Form for States/Tribes
- The Suicide Prevention, Exposure, Awareness and Knowledge Survey for Students (SPEAKS–S)_
- The Campus Infrastructure Interviews (CIFI)
- Three instruments collected by a subset of Campus grantees
- The Training Utilization and Preservation Interview (TUP–I)

Data Collection Activities for State/Tribal Grantees

For State/Tribal grantees, the Prevention Strategies Inventory State/Tribal (PSI–ST) Baseline and Follow-up, Referral Network Survey (RNS), and the Training Utilization and Preservation—Survey (TUP–S–ST): State/Tribal Version described below are revised versions of instruments that previously received OMB approval (OMB No. 0930–0286 with Expiration Date: August 2013) and are currently in use. The Training Activity Summary Page State/Tribal (TASP–ST), Early Identification, Referral and Follow-up Screening Form (EIRF–S) and the Early Identification, Referral and Follow-up Analysis (EIRF) are data collection activities that utilize existing data sources. The Training Utilization and Preservation Survey (TUP–S): 6-Month Follow-up and Adolescent Versions, the Coalition Profile, and the Coalition Survey are proposed as new data collection instruments.

Prevention Strategies Inventory-State/Tribal (PSI–ST)—Revised: The Prevention Strategies Inventory will collect information on the suicide

[1] The evaluation as designed includes four stages (context, content, process, and impact) each of which is hinged to the fundable activities of the grantees, the research questions outlined in the evaluation statement of work, and the state of the knowledge base in the field of suicide prevention. As such, while the evaluation design does not currently include rigorous impact assessment, it does include the comparative assessment of proximal outcomes as a part of the impact stage. Hereafter, the impact stage is used as an umbrella term to cover evaluation protocols designed and implemented to understand the outcomes of the program.

prevention strategies that grantees have developed and utilized. Prevention strategies include outreach and awareness, gatekeeper training, assessment and referral training for mental health professionals and hotline staff, life skills development programs, screening programs, hotlines and helplines, means restriction, policies and protocols for intervention and postvention, coalitions and partnerships, and direct services and traditional healing practices. Baseline data will be collected from the State/Tribal grantees at the beginning of their grant cycle. Thereafter, they will complete the PSI–ST on a quarterly basis over the duration of their grant period. Baseline data will be collected on information on the types of prevention strategies grantees have developed and utilized, and the follow-up data collection asks the grantees to update the information they have provided on a quarterly basis over the period of the grant. On average, 61 State/Tribal grantees will fill out the PSI–ST per year. One respondent from each site will be responsible for completing the survey. The survey will take approximately 45 minutes; however, the number of products, services and activities implemented under each strategy will determine the number of items each respondent will complete. The PSI has been revised to include response options that better capture subpopulations targeted for prevention strategies. Response options now include the following: American Indian/Alaska Native; Survivors of Suicide; Individuals who engage in nonsuicidal self-injury; Suicide attempters; Individuals with mental and/or substance abuse disorders; Lesbian, gay, bisexual, and transgender populations; Veterans, active military, or military families; Hispanic or Latino population. Additional guidance has also been provided for categorizing prevention strategies that fit in multiple categories. These changes enhance the utility and accuracy of the data collected. The PSI–ST primarily has multiple choice questions with several open-ended questions. Respondents for the Prevention Strategies Inventory will be project evaluators and/or program staff. Each of the 61 State/Tribal grantees will be required to complete the inventory.

Training Activity Summary Page State/Tribal Version (TASP -ST)—Revised: State and Tribal grantees are required to report aggregate training participant information for all training conducted as part of their suicide prevention programs. These data are aggregated from existing data sources, some of which are attendance sheets, management information systems, etc. Grantees are responsible for aggregating these data and submitting to the cross-site evaluation team using the TASP–ST on a quarterly basis. The TASP has been revised to collect information about the settings of trainings and the training goal, as well as the follow-up plans of grantees. It is estimated that abstracting this information will take 20 minutes.

Training Utilization and Preservation Survey (TUP–S): 3-Month Follow-up Version—(Revision) and 6-Month Follow-up Version–(New). The Training Utilization and Preservation Survey (TUP–S) is a quantitative, computer-assisted telephone interview. The previously approved 3-Month Follow-up Version will be administered to a random sample of trainees 3 months following the training. A new version of the survey, the 6-Month Follow-up Version, will be administered to participants 6 months following the training. Both versions will assess trainee knowledge retention and gatekeeper behavior, particularly behavior related to identifying youth at risk. The TUP–S will ask trainees to provide demographic information about individuals they have identified as being at risk, information about the subsequent referrals or supports provided by the trainee, and any available information about services accessed by the at-risk individual.

The target population of TUP–S instruments is participants in GLS sponsored trainings. The different versions of the instrument target distinct strata within that population. The State/Tribal 3-Month Follow-up TUP–S and the 6-Month Follow-up TUP–S will target adults (18 and older) who participated in State/Tribal sponsored trainings (about 900 per grantee in FY 2012). All adult participants of GLS sponsored trainings will be administered a consent-to-contact form by the training facilitator or grantee staff during a training event. Respondents to the State/Tribal TUP–S will be asked to consent to be contacted for a second time (in 3 months).

The cross-site evaluation team will select a probabilistic sample of participants who consent to be contacted on an ongoing basis, as trainings are implemented and consents received, using systematic sampling. The sample fraction will be determined and updated yearly based on the projected number of consents so as to ensure the target sample sizes per year. Changes in the sample fraction will alter inclusion probabilities and must be taken into account in the analysis across years through the use of sampling weights.

Target sample sizes were determined so as to afford small standard errors for the estimates of the quantities of interest in a given year considering available resources. In addition, the sample size for each version is roughly proportional to the size of the stratum they represent in FY 2012. Key survey estimates will take the form of the percentage or proportions, such as the proportion of trainees who identified a youth at risk for suicide during the 3 months after the training. In the case of the TUP–S 6-Month Follow-up, the main interest is the change between administrations in these proportions of interest. Results are presented for the maximum standard errors, i.e., for a proportion close to 50%—in which the variance is the largest—and for no correlation over time in the case of the TUP–S 6-month follow-up.

Instrument Version	Target sample size	Maximum standard error (percent)
ST TUP–S	2,000	1.1
ST TUP–S 6-Month Follow-up (pilot)*	200	5.0
ST TUP–S 6-Month Follow-up*	600	2.9

*Note the precision here is for a difference in proportions, instead of a single proportion, assuming no correlation over time.

An average of 2,000 participants per year will be sampled for completion of the 3-Month Follow-up Version. The 6-Month Follow-up Version will sample 200 participants the first year and will increase to 600 participants in subsequent years. The two versions of the TUP–S include 25 items each and will take approximately 10 minutes to complete.

Training Utilization and Preservation Survey (TUP–S): Adolescent Version—

New. The one-year pilot of the Adolescent version of the Training Utilization and Preservation—Survey will be implemented with grantees sponsoring trainings for youth as part of their grant program. Two methods to reach adolescents to complete the TUP–S will be piloted: one using a Web survey, and another using an SMSS, or text message, survey. The Adolescent Version of the TUP–S will assess adolescent trainees' knowledge retention and gatekeeper behavior. The adolescent version of the survey increases the comprehensiveness of the evaluation, as it allows for the collection of training utilization and retention data among adolescents under the age of 18, who represent more than a fifth of the trainees from States and Tribes, but who heretofore have not participated in the TUP–S.

The Adolescent TUP–S will target adolescents (12 to 17) who participated in State and Tribal sponsored trainings (approximately 170 per grantee in FY 2012). Consent to contact for the Adolescent TUP–S will be obtained from parent/guardians by training facilitators and/or grantee staff in conjunction with the consent to participate in the training itself.

The cross-site evaluation team will select a probabilistic sample of participants who consent to be contacted on an ongoing basis, as trainings are implemented and consents received, using systematic sampling. The sample fraction will be determined and updated yearly based on the projected number of consents so as to ensure the target sample sizes per year. Changes in the sample fraction will alter inclusion probabilities and must be taken into account in the analysis across years through the use of sampling weights.

Target sample sizes were determined so as to afford small standard errors for the estimates of the quantities of interest in a given year considering available resources. In addition, the sample size for the Adolescent Version is roughly proportional to the size of the stratum it represents in FY 2012.

Key survey estimates will take the form of the percentage or proportions, such as the proportion of trainees who identified a youth at risk for suicide during the 3 months after the training.

Instrument version	Target sample size	Maximum standard error (percent)
Adolescent TUP–S (pilot)	100	5.0
Adolescent TUP–S	400	2.5

An average of 100 respondents will be sampled during the pilot year; they will increase to 400 participants in subsequent years. The Adolescent Version of the TUP–S will take approximately 10 minutes to complete.

Referral Network Survey (RNS)—Revised: The Referral Network Survey (RNS) will be administered to representatives of youth-serving organizations or agencies that form referral networks supporting youth identified at risk. The RNS examines how collaboration and integration are used for sharing and transferring knowledge, resources, and technology among State/Tribal Program agencies and organizational stakeholders, how these networks influence referral mechanisms and service availability, policies and protocols regarding follow-up for youths who have attempted suicide and who are at risk for suicide, and access to electronic databases. Using zip code data submitted by grantees on the Training Activity Summary Page forms, cross-site evaluation staff will determine the county or region where the grantee has the greatest impact. The grantee will then be asked to provide contact information for at least one and up to three organizations in this county or region. Cross-site evaluation staff will make a preliminary phone call to ask these primary organizations for their referral network. Using snowball sampling to determine the entire referral network for the county or region, cross-site evaluation staff will contact all organizations within the referral network to conduct the Referral Network Survey. Snowball sampling will be repeated until saturation is reached. However, in large networks, four waves with an average of three referrals per wave will be conducted, for a total of 27 respondents. For these large networks, protocol will be followed:

Wave 1—grantee identifies one respondent.

Wave 2—1 agency provides 3 respondents.

Wave 3—3 agencies each can provide 3 more respondents.

Wave 4—9 agencies can each provide 3 respondents.

If the participant agrees to participate in the survey during the initial phone call, respondents will be asked to provide a current email address. Once the referral network has been established, respondents will be sent an online survey. This online survey will be prefilled with the entire list of the network so respondents may select which organizations are in their direct referral network.

The RNS will be administered to referral networks in years 1 and 3 of the grant. On average, 1467 respondents per year will complete the RNS. Questions on the RNS are multiple-choice, Likert-scale, and open-ended. The RNS includes 57 items and will take approximately 40 minutes to complete. The RNS has undergone several changes. It has been revised to gather more detail about the type, level, and quality of collaboration between agencies, including barriers, facilitators, and outcomes of the collaboration. The mode of administration for this survey will also be changed from phone to the Web to boost response rates.

Coalition Profile—New: The Coalition Profile will be administered once during the grant period to States and Tribes that report engaging in coalition building activities on the Prevention Strategies Inventory (PSI). Grantees will be asked to identify up to ten members of their coalition to participate. The Coalition Profile is a brief survey that provides a summary of the coalition's mission and structure, and will be used in conjunction with the Coalition Survey and the Referral Network Survey. On average, 33 respondents per year will complete the Coalition Profile. The Coalition Profile includes 10 items and will take approximately 20 minutes to complete.

Coalition Survey–New: The Coalition Survey will be administered to all State/Tribal grantees that indicate participation in coalition building activities in their Prevention Strategies Inventory (PSI) once in the first year of the grant, and again during the third year of grant funding. Each grantee will be asked to provide the names and contact information of up to ten individuals identified as part of the suicide prevention coalition. Respondents will be sent a link to complete the survey online. The Coalition Survey measures an organization's involvement in grantees' suicide prevention coalition. On average, 426 respondents per year will complete the Coalition Survey. The Coalition Survey includes 29 questions and will take approximately 40 minutes to complete.

Early Identification, Referral and Follow-up Screening Form (EIRF–S)—Revised: State/Tribal grantees are also required to report screening information for all youth screened as part of their

suicide prevention programs. These data are compiled from existing data sources.

Grantees are responsible for compiling these data and submitting to the cross-site evaluation team using the Early Identification, Referral and Follow-up Screening Form. Grantees are required to submit information on a quarterly basis, and it is estimated that abstracting this information will take 60 minutes. The form has been modified to collect the geographical location of screening events.

Early Identification, Referral and Follow-up Analyses (EIRF)—Revised: State/Tribal grantees are required to share existing data with the cross-site evaluation team on the youth identified at risk as a result of early identification activities, the types of services these youth are referred for, and whether these youth receive services within 3 months of the referral. Grantees are required to submit information on a quarterly basis, and it is estimated that grantees spend 5 hours each quarter extracting this information. The form has been modified to collect the geographical location of the setting in which the youth was identified, and the setting in which the youth received services in an effort to track service availability and accessibility.

Data Collection Activities for Campuses

For Campus grantees, the Prevention Strategies Inventory—Campus Baseline and Follow-up (PSI–C) and the Training Exit Survey—Campus (TES–C), are revised versions of instruments that previously received OMB approval (OMB No. 0930–0286 with Expiration Date: August 2013) and are currently in use. The Training Activity Summary Page Campus (TASP–C) and the MIS Data Collection Activity utilize existing data sources. The Life skills Activity Follow-up Interview (LAI), the Short Message Service Survey (SMSS), the Student Awareness Intercept Survey (SAIS), and the Training Utilization and Preservation—Survey (TUP–S): Campus Version are proposed as new data collection instruments.

Prevention Strategies Inventory-Campus (PSI–C)—Revised: The Prevention Strategies Inventory will collect information on the suicide prevention strategies that grantees have developed and utilized. Prevention strategies include outreach and awareness, gatekeeper training, assessment and referral training for mental health professionals and hotline staff, life skills development activities, screening programs, hotlines and helplines, means restriction, policies and protocols for intervention and postvention, and coalitions and partnerships. The Campus grantees will first collect baseline data. Thereafter, they will collect follow-up data on a quarterly basis over the duration of their grant period. Baseline data will be collected on information on the types of prevention strategies grantees have developed and utilized, and the follow-up data collection asks the grantees to update the information they have provided on a quarterly basis over the period of the grant. On average, 60 Campus grantees will complete the PSI–C each year. One respondent from each site will be responsible for completing the survey. The survey will take approximately 45 minutes. However, the number of products, services and activities implemented under each strategy will determine the number of items to complete. The PSI has been revised to include response options that better capture subpopulations targeted for prevention strategies. Response options now include the following: American Indian/Alaska Native; Survivors of Suicide; Individuals who engage in nonsuicidal self-injury; Suicide attempters; Individuals with mental and/or substance abuse disorders; Lesbian, gay, bisexual, and transgender populations; Veterans, active military, or military families; Hispanic or Latino population. Additional guidance has also been provided for categorizing prevention strategies that fit in multiple categories. These changes enhance the utility and accuracy of the data collected. The survey primarily has multiple choice questions with several open-ended questions. Respondents for the Prevention Strategies Inventory will be project evaluators and/or program staff. Each of the 60 Campus grantees will be required to complete the inventory.

Training Exit Survey Campus Version (TES–C): The TES–C will be administered to all participants in suicide prevention training activities immediately following their training experience in order to assess the content of the training, the participants' intended use of the skills and knowledge acquired, and satisfaction with the training experience. The survey will also contain modules with questions tailored to specific types of training. Respondents will include all individuals who participate in a training activity sponsored by the 60 Campus grantees. It is estimated that approximately 37,920 trainees per year will respond to the Training Exit Survey. This estimate is based on data previously collected which indicate that Campus sites train a mean of 632 participants per year. Because the respondents to the survey represent the entire trainee population in each grantee site, there is no need for calculation of precision of point estimates for survey responses. The number of respondents will be sufficient to conduct assessments of the psychometric properties of the scales developed for this study both within and across grantee sites. The questions on the TES–C are multiple-choice, Likert-scale, and open-ended. The survey includes about 33 items and will take approximately 10 minutes to complete.

Training Activity Summary Page Campus Version (TASP–C)—Revised: State and Tribal grantees are required to report aggregate training participant information for all training conducted as part of their suicide prevention programs. These data are aggregated from existing data sources, some of which are attendance sheets, management information systems, etc.

Grantees are responsible for aggregating these data and submitting to the cross-site evaluation team using the TASP–C data elements.

Grantees are responsible for aggregating these data and submitting to the cross-site evaluation team using the TASP–C on a quarterly basis. The TASP has been revised to collect information about the settings of trainings and the training goal, as well as the follow-up plans of grantees. It is estimated that abstracting this information will take 20 minutes.

Training Utilization and Preservation—Survey (TUP–S): Campus Version—New. The Training Utilization and Preservation—Survey (TUP–S): Campus Version collects information about the utilization and retention of participants' knowledge, skills and/or techniques learned through trainings conducted on campuses. It will be administered to a random sample of training participants 3 months following the training to students who participated in a GLS sponsored training (about 450 per grantee in FY 2012). All student (over the age of 18) participants of GLS sponsored trainings will be administered a consent-to-contact form by the training facilitator or grantee staff during a training event. The cross-site evaluation team will select a probabilistic sample of participants who consent to be contacted on an ongoing basis, as trainings are implemented and consents received, using systematic sampling. The sample fraction will be determined and updated yearly based on the projected number of consents so as to ensure the target sample sizes per year. Changes in the sample fraction will alter inclusion probabilities and must be taken into account in the

analysis across years through the use of sampling weights.

The target sample size was determined so as to afford small standard errors for the estimates of the quantities of interest in a given year considering available resources. In addition, the sample size for the Campus version is roughly proportional to the size of the stratum they represent in FY 2012. Key survey estimates will take the form of the percentage or proportions, such as the proportion of trainees who identified a youth at risk for suicide during the 3 months after the training.

Instrument version	Target sample size	Maximum standard error (percent)
Campus TUP–S (pilot)	100	5.0
Campus TUP–S	500	2.2

This version of the TUP–S will be piloted for 1 year. During the first pilot year, 100 respondents will participate. On average, in subsequent years, 500 respondents will participate in the TUP–S: Campus Version. This instrument includes 25 items and will take approximately 10 minutes to complete.

Life skills Activities Follow-up Interview (LAI)—New: The Life skills Activities Follow- up Interview (LAI) will be administered to randomly selected participants of selected Campus trainings. This qualitative interview will address how students apply the skills and information learned through campus life skills and wellness activities aimed at enhancing protective factors. The cross-site evaluation team, in consultation with local program staff, will select five particular training activities per year in which to administer the LAI. Trainees will be asked to complete consent-to-contact form indicating their willingness to be contacted to participate in the LAI and return the form to local program staff. Key informants for the LAI will be randomly selected from those individuals who consent to be contacted by the cross-site evaluation team. Local program staff will forward the consent-to-contact forms to the cross-site evaluation team. Up to seven respondents from each of the five selected trainings will be randomly selected from among the potential respondents based on consent-to-contact information, for a total of up to 35 respondents per year. Interviews will be conducted within 3 months of completion of the training activity. It is estimated that seven respondents per grantee will be sufficient to ensure saturation of themes in the content analysis of results from the qualitative interviews. The LAI will take approximately 30 minutes to complete.

This instrument will be administered to up to 7 trainees from up to 5 selected campus trainings per year, for a total of up to 35 respondents per year. The LAI will take approximately 30 minutes to complete.

Short Message Service Survey (SMSS)—New: The Short Message Service Survey (SMSS) will be administered to a random sample of students, once in the first year of the grant, and again in the third year. The four-question text message survey will assess student exposure to and participation in suicide prevention activities on campus, and will collect information on suicidal ideation. The target population is students enrolled in each Campus at years 1 and 3 of the grant funding. Each year, the list of mobile phone numbers for all students will be obtained from each campus. A random sample of mobile phone numbers will be selected. The target number of respondents will be 100 per campus. It is expected that 1,000 mobile phone numbers will be required to achieve 100 responses. The list of mobile phone numbers from year 3 will be compared to that of year 1 to identify a stratum of mobile phone numbers present both years and to determine its relative size. Respondents in year 1 will be contacted again in year 3 if their mobile phone number is still present in the year 3 list. Oversampling mobile phone numbers present in both years will result in a more precise estimate of change. On average, 5,200 students per year will participate in the SMSS, which takes approximately 5 minutes to complete.

Student Awareness Intercept Survey (SAIS)—New

Respondents for the SAIS will represent a sample of the student population at up to four selected campuses. Campuses implementing targeted suicide prevention campaigns will be identified and selected by reviewing grant applications and through technical assistance activities. A sampling plan to obtain 400 student respondents at up to four participating campuses will be developed by the cross-site evaluation team in conjunction with the campus project team using geographical and temporal sampling frames of student activity. Working with the campus grantee, the evaluation team will recruit respondents utilizing a systematic process that randomly selects campus locations and times. For the follow-up administration, the same sample size will be targeted. However, that sample will result from a combination of follow-up interviews with students from the initial sample, in combination with students newly recruited through an intercept procedure similar to the procedure. The SAIS will collect information about: exposure to suicide prevention outreach and awareness initiatives with targeted student populations; awareness of appropriate crisis interventions, supports, services, and resources for mental health seeking; knowledge of myths and facts related to suicide and suicide prevention; and attitudes toward mental health seeking, access, and utilization of mental health services on campus. A follow-up version of the survey will be administered 3 months after baseline. On average, 1,600 students per year will participate in the SAIS, which takes approximately 60 minutes to complete.

MIS Data Abstraction—Revised: For the cross-site evaluation of the Campus programs, existing program data related to student retention rates, student use of mental health services, and student use of emergency services will be requested from Campuses once a year. The form has been modified to allow grantees to capture data on the number of attempted or completed suicides among students who live on and off campus. It is estimated that abstracting this information will take 20 minutes.

Internet-based technology will continue to be used for collecting data via Web-based surveys, and for data entry and management. The average annual respondent burden is estimated below.

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN

Type of respondent	Instrument	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours)	Hourly wage rate ($)	Total cost ($)
State/Tribal Cross-Site Evaluation Instruments								
Project Evaluator	Prevention Strategies Inventory—State Tribal (PSI–ST).	61	4	244	0.75	183	37.82	6,922
Provider (Trainees)	Training Utilization and Preservation Survey (TUP–S).	2,000	1	2,000	0.16	320	21.35	6,832
Adolescents (Trainees).	Training Utilization and Preservation Survey (TUP–S).	300	1	300	0.16	48	7.25	348
Provider (Trainees)	Training Utilization and Preservation Survey (TUP–S): 6-Month Follow-up.	467	1	1,467	0.16	75	21.35	1,602
Provider (Stakeholder)	Referral Network Survey (RNS)	1,426	1	1,426	0.67	956	21.35	20,411
Project Evaluator	Coalition Profile (CP)	33	1	33	0.33	11	37.82	417
Provider (Stakeholder)	Coalition Survey (CS)	426	1	426	0.67	286	21.35	6,107
Project Evaluator	Early Identification, Referral and Follow-up Analysis (EIRF).	61	4	244	5	1,220	37.82	46,141
Project Evaluator	Early Identification, Referral and Follow-up Screening Form (EIRF–S).	27	4	108	1	108	37.82	4,085
Project Evaluator	Training Activity Summary Page (TASP–ST)	61	4	244	.33	81	37.82	3,064

TABLE 2—ANNUALIZED SUMMARY TABLE

Respondents	Number of respondents	Responses/ respondent	Total responses	Total annualized hour burden
State/Tribal Cross–Site Evaluation Instruments				
Project Evaluators	243	17	873	1,603
Adolescents (Trainees)	300	1	300	48
Provider (Trainees)	2,467	2	3,467	395
Provider (Stakeholder)	1,852	2	1,852	1,242
Campus Cross-Site Evaluation Instruments				
Project Evaluators	180	9	720	280
Students	7,202	5	8,802	3,709
Provider Trainees	37,920	1	37,920	6,447
Total				
Total	50,164		53,934	13,724

The estimate reflects the average annual number of respondents, the average annual number of responses, the time it will take for each response, and the average annual burden. While the different cohorts of grantees finish their grants at different times, it is assumed that new cohorts will replace previous cohorts. Therefore, the number of grantees in each year is assumed to be constant.

Written comments and recommendations concerning the proposed information collection should be sent by September 16, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submittheir comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–19985 Filed 8–15–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0023]

Statewide Communication Interoperability Plan Template and Annual Progress Report

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-day notice and request for comments; New Information Collection Request: 1670–0017.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C), Office of Emergency Communications (OEC), will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and

clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until October 15, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to DHS/NPPD/CS&C/OEC, 245 Murray Lane SW., Mail Stop 0640, Arlington, VA 20598–0640. Emailed requests should go to Serena Maxey, *serena.maxey@hq.dhs.gov*. Written comments should reach the contact person listed no later than October 15, 2013. Comments must be identified by ''DHS–2013–0023'' and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*.
- *Email:* Include the docket number in the subject line of the message.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security, Office of Emergency Communications (OEC), formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 571 et seq., is required, pursuant to 6 U.S.C. 572, to develop the National Emergency Communications Plan (NECP), which includes identification of goals, timeframes, and appropriate measures to achieve interoperable communications capabilities. In 2010, the Statewide Communication Interoperability Plan (SCIP) Implementation Report was cleared in accordance with the Paperwork Reduction Act of 1995 and will expire in September of 2013. The SCIP Template and Annual Progress Report will replace the previous SCIP Template and SCIP Implementation Report. These updated documents (SCIP Template and Annual Progress Report) streamline the information collected by OEC to track the progress states are making in implementing milestones and demonstrating goals of the NECP. The process for completing the SCIP Template and Annual Progress Report will not change.

The SCIP Template and Annual Progress Report will assist states in their strategic planning for interoperable and emergency communications while demonstrating each state's achievements and challenges in accomplishing optimal interoperability for emergency responders. In addition, certain government grants may require states to update their SCIP Templates and Annual Progress Reports to include broadband efforts in order to receive funding for interoperable and emergency communications. Statewide Interoperability Coordinators (SWICs) will be responsible for the development and incorporation of input from their respective stakeholders and governance bodies into their SCIP Template and Annual Progress Report. SWICs will complete and submit the reports directly to OEC through unclassified electronic submission.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Cybersecurity and Communications, Office of Emergency Communications.

Title: Statewide Communication Interoperability Plan Template and Annual Progress Report.

OMB Number: 1670–0017.

Frequency: Annually.

Affected Public: Statewide Interoperability Coordinators.

Number of Respondents: 56 respondents.

Estimated Time per Respondent: 10 hours.

Total Burden Hours: 560 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $28,918.40.

Dated: August 12, 2013.

Scott Libby,

Deputy Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2013–20025 Filed 8–15–13; 8:45 am]

BILLING CODE 9910–9P–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Sensitive Security Information Threat Assessments

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0042, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves TSA determining whether the party or representative of a party seeking access to sensitive security information (SSI) in a civil proceeding in federal court may be granted access to the SSI.

DATES: Send your comments by October 15, 2013.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins at the above address, or by telephone (571) 227–3398.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for

the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0042; Sensitive Security Information Threat Assessments. TSA is seeking to renew the control number (1652–0042) for the maximum three-year period in order to continue compliance with sec. 525(d) of the Department of Homeland Security Appropriations Act of 2007 (DHS Appropriations Act, Public Law 109–295, 120 Stat 1382), as reenacted, and to continue the process TSA developed whereby a party seeking access to SSI in a civil proceeding in federal court who demonstrates a substantial need for relevant SSI in the preparation of the party's case, and who is unable without undue hardship to obtain the substantial equivalent of the information by other means, may request that the party or party's representative be granted conditional access to the SSI at issue in the case. The procedures also apply to witnesses retained by a party as experts or consultants and court reporters that are required to record or transcribe testimony containing specific SSI and do not have a current security threat clearance required for access to classified national security information as defined by E.O. 12958 as amended.

In order to determine if the individual may be granted access to SSI for this purpose, TSA will conduct a threat assessment that includes: (1) A fingerprint-based criminal history records check (CHRC), (2) a name-based check to determine whether the individual poses or is suspected of posing a threat to transportation or national security, including checks against terrorism, immigration, or other databases TSA maintains or uses; and (3) a professional responsibility check (for attorneys and court reporters).

TSA will use the information collected to conduct the security threat assessment for the purpose of determining whether the provision of such access to the information for the proceeding presents a risk of harm to the Nation. The results of the security threat assessment will be used to make a final determination on whether the individual may be granted access to the SSI at issue in the case. TSA estimates that the total annual hour burden for this collection will be 120 hours, based on an estimated 120 annual respondents and a one-hour burden per respondent.

Dated: August 9, 2013.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–19973 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Pipeline Operator Security Information

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0055, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. Specifically, the collection involves the submission of contact information for a pipeline company's primary and alternate security manager and the telephone number of the security operations or control center, as well as data concerning pipeline security incidents.

DATES: Send your comments by October 15, 2013.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins at the above address, or by telephone (571) 227–3398.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Purpose and Description of Data Collection

OMB Control Number 1652–0055; Pipeline Operator Security Information. Under the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71, 115 Stat. 597 (November 19, 2001)) and delegated authority from the Secretary of Homeland Security, TSA has broad responsibility and authority for ''security in all modes of transportation . . . including security responsibilities . . . over modes of transportation that are exercised by the Department of Transportation.''

In executing its responsibility for modal security, TSA produced the Pipeline Security Guidelines in December 2010 following extensive consultation with its government and industry partners (the document was updated and re-issued in April 2011 following implementation of the National Terrorism Advisory System). Participants in this discussion included industry and government members of the Pipeline Sector and Government Coordinating Councils, industry association representatives, and other interested parties. These primary Federal guidelines for pipeline security include recommendations for the voluntary submission of pipeline operator security manager contact information to TSA and the reporting of security incident data to the Transportation Security Operation Center (TSOC).

The Pipeline Security Guidelines recommend that each operator provide TSA with the 24/7 contact information of the company's primary and alternate

security manager, and the telephone number of the security operations or control center. Submission of this voluntary information may be done by telephone, email, or any other method convenient to the pipeline operator.

As the lead Federal agency for pipeline security, TSA desires to be notified of all incidents which are indicative of a deliberate attempt to disrupt pipeline operations or activities that could be precursors to such an attempt. The Pipeline Security Guidelines request pipeline operators notify the Transportation Security Operation Center (TSOC) via phone at 866–615–5150 or email at *TSOC.ST@dhs.gov* as soon as possible if any of the following incidents occurs or if there is other reason to believe that a terrorist incident may be planned or may have occurred:

- Explosions or fires of a suspicious nature affecting pipeline systems, facilities, or assets;
- Actual or suspected attacks on pipeline systems, facilities, or assets;
- Bomb threats or weapons of mass destruction (WMD) threats to pipeline systems, facilities, or assets;
- Theft of pipeline company vehicles, uniforms, or employee credentials;
- Suspicious persons or vehicles around pipeline systems, facilities, assets, or right-of-way;
- Suspicious photography or possible surveillance of pipeline systems, facilities, or assets;
- Suspicious phone calls from people asking about the vulnerabilities or security practices of a pipeline system, facility, or asset operation;
- Suspicious individuals applying for security-sensitive positions in the pipeline company;
- Theft or loss of Sensitive Security Information (SSI) (detailed pipeline maps, security plans, etc.); and
- Actual or suspected cyber-attacks that could impact pipeline Supervisory Control and Data Acquisition (SCADA) or enterprise associated IT systems.

When contacting the TSOC, the Guidelines request pipeline operators provide as much of the following information as possible:

- Name and contact information (email address, telephone number);
- The time and location of the incident, as specifically as possible;
- A description of the incident or activity involved;
- Who has been notified and what actions have been taken; and
- The names and/or descriptions of persons involved or suspicious parties and license plates as appropriate.

There are approximately 3,000 pipeline companies in the United States. TSA estimates that pipeline operators will require a maximum of 15 minutes to collect, review, and submit primary/alternate security manager and security operations or control center contact information by telephone or email. Assuming voluntary submission of the requested information by all operators, the potential burden to the public is estimated to be a maximum of 750 hours (3,000 companies × 15 minutes = 750 hours). Turnover of security personnel would necessitate changes to previously-submitted contact information on an as-occurring basis. Assuming an annual employee turnover rate of 10 percent, the potential burden to the public is estimated to be a maximum of 75 hours (3,000 companies × 10 percent turnover = 300 updates; 300 updates × 15 minutes = 75 hours).

TSA expects reporting of pipeline security incidents will occur on an irregular basis. TSA estimates that approximately 40 incidents will be reported annually, requiring a maximum of 30 minutes to collect, review, and submit event information. The potential burden to the public is estimated to be 20 hours. (40 incidents × 30 minutes = 20 hours)

Use of Results

The renewal of this information collection will allow TSA to continue using the operator contact information to provide security-related information to company security managers and/or the security operations or control center. Additionally, TSA may use operator contact information to solicit additional information following a pipeline security incident. TSA will use the security incident information provided by operators for vulnerability identification and analysis and trend analysis.

Since the 2011 issuance of the Pipeline Security Guidelines, reports of security incidents in the pipeline industry have been routinely used by the TSA to analyze trends in suspicious activities. This analysis is incorporated into TSA's annual pipeline modal threat assessment. TSA may also include incident information, in redacted form, in additional intelligence reports produced by TSA relevant to transportation security. TSA recognizes that the criteria for evaluating an activity as suspicious may vary from company to company. Nevertheless, the submission of information regarding events that may indicate pre-operational activities is of considerable value for threat analysis. To the extent that incident information provided by pipeline operators is SSI, it will be protected in accordance with procedures meeting the transmission, handling, and storage requirements of SSI set forth in 49 CFR parts 15 and 1520.

Dated: August 7, 2013.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–19974 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5681–N–33]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 8, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2013–19640 Filed 8–15–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[FWS–HQ–FHC–2013–N176; FXFR13360900000–134–FF09F14000]

National Environmental Policy Act: Implementing Procedures; Addition to Categorical Exclusions for U.S. Fish and Wildlife Service

AGENCY: Department of the Interior.

ACTION: Notice; reopening of comment period.

SUMMARY: This notice announces a reopening of the public comment period on the proposed categorical exclusion under the National Environmental Policy Act (NEPA) for the U.S. Fish and Wildlife Service. The proposed categorical exclusion pertains to adding species to the injurious wildlife list under the Lacey Act. The addition of this categorical exclusion to the Department of the Interior's Departmental Manual will improve conservation activities by making the NEPA process for listing injurious species more efficient. If you have previously submitted comments, please do not resubmit them because we have already incorporated them in the public record and will fully consider them in our final decision.

DATES: We will consider comments we receive on or before October 15, 2013.

ADDRESSES: *Comment submission:* Send comments to Susan Jewell, by one of the following methods:

- *U.S. mail or hand delivery:* U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 700, Arlington, VA 22203; or
- *Email: prevent_invasives@fws.gov* (emails must have ''Categorical Exclusion'' in the subject line).

Document availability: You may view the Departmental Manual at *http://elips.doi.gov/elips/.*

FOR FURTHER INFORMATION CONTACT: Susan Jewell, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203; telephone 703–358–2416. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2103, the Department of the Interior published a notice in the **Federal Register** (78 FR 39307) proposing to add a categorical exclusion to the Departmental Manual for the U.S. Fish and Wildlife Service. The 30-day comment period for the notice ended on July 31, 2013. We received requests to allow more time for public comments, and, therefore, we are reopening the comment period for an additional 60 days.

Public Comments

Any comments to be considered on this proposed addition to the list of categorical exclusions in the Departmental Manual must be received by the date listed in **DATES** at the location listed in **ADDRESSES**. Comments received after that date will be considered only to the extent practicable. Comments, including names and addresses of respondents, will be posted at *http://www.fws.gov/injuriouswildlife.* Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. If you have previously submitted comments, please do not resubmit them because we have already incorporated them in the public record and will fully consider them in our final decision. Comments received between the close of the first comment period and the opening of the new one will still be accepted and considered.

Dated: August 12, 2013.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 2013–19922 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2013–0005; OMB Control Number 1014–0017: 134E1700D2 EEEE500000 ET1SF0000.DAQ000]

Information Collection Activities: Safety and Environmental Management Systems (SEMS); Proposed Collection; Comment Request

Correction

In notice document 2013–19416 appearing on pages 48890 through 48893 in the issue of Monday, August 12, 2013, beginning on page 48892, BSEE form BSEE–0130 is corrected to appear as photographed below.

BILLING CODE 1501–05–D

U.S. Department of the Interior
Bureau of Safety and Environmental Enforcement

OMB Control Number 1014-xxxx
OMB Approved Expiration Date: xx/xx/xxxx

SEMS Accreditation Body Application

Under 30 CFR 250.1922, organizations requesting approval as an accreditation body must submit this application to BSEE that describes the process for assessing an audit service provider (ASP) for accreditation and approving, maintaining, and withdrawing the accreditation of an ASP. Requests for approval must be sent to DOI/BSEE, ATTN: Chief, Office of Offshore Regulatory Programs, 381 Elden Street, HE-3314, Herndon, VA 20170.

Name _____
Address _____ City/State/Zip_____
E-Mail _____ Phone _____

Accreditation Information

Member of International Accreditation Forum (IAF)?
Yes / No (If Yes, attach associated documentation)

_____

Most Recent Peer Review? (Attach associated documentation)

_____

Describe how your accreditation process meets the requirements of section 6, requirement for accreditation of audit services providers performing SEMS audits and Certification of Deepwater Operations (COS-0204, or its equivalent, attach any documents necessary to support your case).

_____
_____
_____
_____
_____

What is the scope of accreditation service that you provide?
(Attach associated documentation)

SEMS Audits ISO 140000 API Spec Q1 Other (specify) _____

_____

Do you have a website that is setup to load and display accreditation applicant names, final dispositions, expiration dates, and scope of accreditation? Yes/No If yes, provide URL_____

CERTIFICATION

I certify that the information submitted on and with this form is complete and accurate to the best of my knowledge. I understand that making a false statement may subject me to criminal penalties under 18 U.S.C. 1001.

Name and Title: _____ Date: _____

Submission

Include the following documents (as applicable) with your application:

1 Statement of Qualifications
2 State Certificate of Incorporation, Partnership or other legal entity
3 Charter or Articles of Incorporation
4 By-Laws
5 List of Board of Directors, Trustees, and/or Key Personnel
6 Most recent financial audit report
7 Current financial statements, Profit and Loss, or Statement of Activities
8 Description of Quality Management System
9 Description of process for determining whether to accredit an applicant
10 Any peer review reports or audits of compliance with ISO 9000, ISO 17011, or similar standards
11 Any other relevant certificates or business registrations
12 Official policies regarding: Impartiality, Confidentiality and Privacy, Conflict of Interest, and Records Management
13 Certificates of General Liability, Directors and Officers, Malpractice, or other insurance and bonding
14 Description of or official policy and procedures for handling complaints

PAPERWORK REDUCTION ACT STATEMENT: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires us to inform you that this information is collected to implement the various safety and environmental provisions of the OCS Lands Act. We use the information to determine suitability for approval as an accreditation body. Responses are to obtain and/or retain a benefit and mandatory (43 U.S.C. 1334). Proprietary data are covered under 30 CFR 250.197. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. Public reporting burden of this form is estimated to average 16 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the this form to the Information Collection Clearance Officer, Bureau of Safety and Environmental Enforcement, 381 Elden Street, Herndon, VA 20170.

[FR Doc. C1–2013–19416 Filed 8–15–13; 8:45 am]
BILLING CODE 1501–05–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–NWRS–2013–0036; FXRS12610800000–134–FF08RSFC00]

South Farallon Islands Invasive House Mouse Eradication Project; Farallon National Wildlife Refuge, California; Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental impact statement (EIS) for a proposed project to eradicate non-native, invasive house mice from the South Farallon Islands, part of the Farallon National Wildlife Refuge off the coast of California. The draft EIS, which we prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), describes the alternatives identified to address the problem of invasive house mice on the South Farallon Islands.

DATES: We will accept comments received or postmarked on or before September 30, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document Availability:* You may obtain copies of the documents in the following places:

- *Internet: http://www.regulations.gov* (Docket Number FWS–R8–NWRS–2013–0036)
- *In-Person:*
  - San Francisco Bay National Wildlife Refuge Complex Headquarters, 1 Marshlands Road, Fremont, CA 94555.
  - The following library:
    - San Francisco Public Library, 100 Larkin Street, San Francisco, CA 94102.

Submitting Comments: You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter FWS–R8–NWRS–2013–0036, which is the docket number for this notice. Then, on the left side of the screen, under the Document Type heading, click on the Notices link to locate this document and submit a comment.
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–NWRS–2013–0036; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all information received on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Gerry McChesney, Refuge Manager, 510–792–0222, ext. 222 (phone).

SUPPLEMENTARY INFORMATION:

Background

In 2009, the Service completed a Comprehensive Conservation Plan (CCP) and Environmental Assessment/Finding of No Significant Impact to guide the management of the Farallon National Wildlife Refuge (Refuge) over a 15-year period (75 FR 5102, February 1, 2010). The wildlife management goal of the selected management alternative in the CCP is to protect, inventory, and monitor, as well as to restore to historic levels, breeding populations of 12 seabird species, 5 marine mammal species, and other native wildlife. One of the strategies identified to meet this goal is the eradication of the non-native, invasive house mouse (*Mus musculus*) from the South Farallon Islands, and the prevention of future human introduction of mice.

We now propose to eradicate invasive house mice from the South Farallon Islands. The purpose of this project is to benefit native seabirds, amphibians, invertebrates, and plants, as well as to enhance ecosystem processes on the islands. The South Farallon Islands have sustained ecological damage over many decades from the presence of invasive mice. Eradicating house mice would eliminate the last remaining invasive vertebrate species on the Refuge, thereby enhancing the recovery of sensitive seabird populations on the islands.

In 1909, President Theodore Roosevelt established the Farallon National Wildlife Refuge (Refuge) as a preserve and breeding ground for marine birds under Executive Order 1043. The Refuge originally encompassed only the North and Middle Farallon Islands and Noonday Rock. In 1969 the Refuge was expanded to include the South Farallon Islands, and is still managed with the same basic purpose today. Several areas are designated wilderness as regulated by the Wilderness Act of 1964 (PL 88–577). Wilderness areas include all islands and islets in the Refuge except for Southeast Farallon Island. The isolated nature, varied and extensive habitats, and adjacent productive marine environment make the Farallon Islands an ideal breeding and resting location for wildlife, especially seabirds and marine mammals. The Refuge comprises the largest continental U.S. seabird breeding colony south of Alaska, and supports the world's largest breeding colonies of ashy storm-petrel (*Oceanodroma homochroa*), Brandt's cormorant (*Phalacrocorax penicillatus*), and western gull (*Larus occidentalis*). Prior to the introduction of non-native mammals, the wildlife of the Farallon Islands were nearly devoid of land-based predatory threats. Introduced European rabbits and cats, which were later removed, and mice, which remain on the South Farallon Islands today, have had noticeable negative impacts on native species.

Invasive house mice directly and indirectly cause negative impacts to the populations of small, crevice-nesting seabirds on the South Farallones, particularly storm-petrels. In order to reduce this impact, the Service has identified mouse eradication as a critical step in fulfilling its main purpose to protect and restore the native ecosystem of the South Farallon Islands. Eradicating mice would increase the survivorship and local population sizes of at least two seabird species, the ashy storm-petrel and Leach's storm-petrel (*Oceanodroma leucorhoa*). The eradication project would also benefit native amphibians, invertebrates, and plants, including the endemic Farallon arboreal salamander (*Aneides lugubris farallonensis*) and endemic Farallon camel cricket (*Farallonophilus cavernicolus*).

Alternatives

In 2011, we published a notice of intent (NOI) to prepare an EIS (76 FR 20706, April 13, 2011). We then developed a range of alternatives to focus on the primary issues identified by resource specialists within the Service, national and international experts in island rodent eradication, public comments received after the NOI to prepare the EIS was released, and government regulatory agencies that have a stake in the decision-making process. To decide which action alternatives to fully analyze in the Draft EIS, we used a structured decision-making approach, by which we assessed and compared a total of 49 potential mouse-removal methods. The

development of alternatives was also informed by Service policies regarding the use of pesticides and the minimum requirements analysis process under the Wilderness Act. Three alternatives are analyzed in the draft EIS:

Alternative 1: No-Action Alternative

Under this alternative, we would not take any action to eradicate mice from the South Farallon Islands, maintaining the status quo. Native species would continue to be impacted by invasive mice. However, other ongoing invasive species management programs on the South Farallones would continue based on previous agency decisions. Low-intensity mouse control, primarily snap-trapping, currently occurs within and around the residences and other buildings on Southeast Farallon Island. These localized control efforts would continue under the no-action alternative, but the mouse population on the rest of the South Farallones would not be subject to control efforts.

Under this alternative, we would also continue management activities focused on protecting storm-petrels and their habitat on the islands, including invasive plant control and nest habitat construction. The current biosecurity measures would likely continue under this alternative, which could leave the Farallones at risk of additional invasions by non-native animal species.

Alternative 2: Eradicate invasive house mice from the South Farallon Islands by aerial broadcast of Brodifacoum 25D-Conservation as the primary method of bait delivery

Under this alternative, the project area would be treated with the rodenticide Brodifacoum 25D Conservation. The primary delivery of the bait would be through two aerial applications, with hand baiting and bait stations as a secondary means of bait delivery in selected areas. Bait applications would be separated by 10 to 21 days. The applications would take place between October and December. A comprehensive gull hazing program would be implemented as part of the action to minimize the exposure of gulls to bait. Mitigation measures in this alternative include minimizing activities in wilderness areas, protecting cultural resources, minimizing wildlife disturbances, minimizing bait drift into the marine environment, raptor capture and hold/relocation, use of bait stations in certain areas with high numbers of roosting gulls, and the removal of carcasses of mice and non-target species, and covering the water catchment pad.

Monitoring of operational, mitigation, and ecosystem restoration objectives would be conducted before, during, and after the proposed mouse eradication. In addition, in order to mitigate the risk of future rodent reinvasion, a biosecurity plan would be implemented prior to the proposed eradication to prevent and detect future rodent incursions.

Alternative 3: Eradicate invasive house mice from the South Farallon Islands by aerial broadcast of Diphacinone D50-Conservation as the primary method of bait delivery

Under this alternative, the project area would be treated with the rodenticide Diphacinone D50-Conservation. Alternative 3 differs from Alternative 2 in the type of rodenticide used for the proposed eradication and the number of applications that may be necessary. A comprehensive gull hazing program would be implemented to minimize the exposure of gulls to bait. Alternative 3 would include the same mitigation measures described under Alternative 2, as well as the monitoring program and the biosecurity plan. Under Alternative 3, Diphacinone D50-Conservation would be broadcast primarily by helicopter, with some hand baiting and bait stations used in selected areas. However, under Alternative 3 we would need to broadcast a portion of the total amount of bait required during up to three or four applications, each separated by approximately 7 days. The number of applications will be determined partly by mouse uptake of bait and degradation of bait by rainfall. The bait application would take place between October and December.

NEPA Compliance

We are conducting environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. The draft EIS discusses the direct, indirect, and cumulative impacts of the alternatives on biological resources, cultural resources, wilderness, water quality, and other environmental resources. Measures to minimize adverse environmental effects are identified and discussed in the draft EIS.

Public Comments

We request that you send comments only by one of the methods described in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as documents associated with the notice, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R8–NWRS–2013–0036.

We will hold one public meeting to solicit comments on the draft EIS. We will mail a separate announcement to the public with the exact date, time, and location of the public meeting. We will also post the time, date, and location of the public meeting on our refuge Web site at: *www.fws.gov/refuge/farallon*. We will accept both oral and written comments at the public meeting.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region.

[FR Doc. 2013–19939 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N185; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and [Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before September 16, 2013. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by September 16, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax

Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: University of South Carolina, Columbia, SC; PRT–73008A

The applicant requests amendment and renewal of the permit to import biological specimens collected from nesting female and hatchling hawksbill sea turtles (*Eretmochelys imbricata*) on or near Long Island, Antigua, and on or near 11-Mile Beach, Barbados, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Zoological Society of San Diego, San Diego, CA; PRT–08827B

The applicant requests a permit to re-import a live female African elephant (*Loxodonta africana*) born in the wild for the purpose of enhancement of the survival of the species from Franklin Zoo & Wildlife Sanctuary, c/o Auckland Zoo, Auckland, New Zealand.

Applicant: Jeffrey Dundek, Palos Park, IL; PRT–12356B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Pinto Ranch, Hunt, TX; PRT–13263B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Pinto Ranch, Hunt, TX; PRT–13254B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess barasingha (*Rucervus duvaucelii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), and red lechwe (*Kobus leche*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Dakota Zoological Society, Bismarck, ND; PRT–176086

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following species in the Cebidae family—Cotton-top tamarin (*Saguinus oedipus*), snow leopard (*Uncia uncia*), and red-ruffed lemur (*Varecia rubra*)—to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: William Burnett, North Little Rock, AR; PRT–034480

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for spotted pond turtle (*Geoclemys hamiltonii*) and radiated tortoise (*Geochelone radiata*), to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE; PRT–10967B

The applicant requests a permit to import a captive-bred Malayan tapir (*Tapirus indicus*) for the purpose of enhancement of the survival of the species.

Applicant: John Klauss, Pipe Creek, TX; PRT–13560B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*), to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: John Klauss, Pipe Creek, TX; PRT–13559B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess addax (*Addax nasomaculatus*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities over a 5-year period.

Applicant: Fresno Chaffee Zoo, Fresno, CA; PRT–690128

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families:

Bovidae

Cebidae

Cercopithecidae

Felidae (*does not* include jaguar, margay, or ocelot)

Hylobatidae

Lemuridae

Tapiridae

Boidae (*does not* include Mona boa or Puerto Rico boa)

Gekkonidae

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Dale James, Lesterville, SD; PRT–12915B;

Applicant: Anthony Gaglio, Stamford, CT; PRT–13216B;

Applicant: Shane Erving, Billings, MT; PRT–13270B.

B. Endangered Marine Mammals and Marine Mammals

Applicant: Bristol Bay Native Association, Dillingham, AK; PRT–05664B

The applicant requests a permit to conduct population surveys which could cause Level B harassment of northern sea otters (*Enhydra lutris kenyoni*) along the coasts of Bristol Bay and the Alaskan Peninsula, Alaska, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 3-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–19919 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

[GX13EN05ESB0500]

Advisory Committee on Climate Change and Natural Resource Science

AGENCY: U.S. Geological Survey, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2, we announce that the Advisory Committee on Climate Change and Natural Resource Science will hold a meeting.

DATES: *Meetings:* The meetings will be held as follows: Wednesday, September 18, 2013, from 9:00 a.m. to 5:45 p.m.; and Thursday, September 19, 2013 from 8:30 a.m. to 3:00 p.m. (All times Eastern).

ADDRESSES: Hall of the States Building, 444 North Capitol Street NW., Washington, DC 20001, Room 283/285.

FOR FURTHER INFORMATION CONTACT: Mr. Robin O'Malley, Designated Federal Officer, Policy and Partnership Coordinator, National Climate Change and Wildlife Science Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 400, Reston, VA 20192, *romalley@usgs.gov,* (703) 648–4086.

SUPPLEMENTARY INFORMATION: Chartered in May 2013, the Advisory Committee on Climate Change and Natural Resource Science (ACCCNRS) advises the Secretary of the Interior on the establishment and operations of the U.S. Geological Survey (USGS) National Climate Change and Wildlife Science Center (NCCWSC) and the Department of the Interior (DOI) Climate Science Centers (CSCs). ACCCNRS members represent federal agencies; tribal, state, and local governments; nongovernment organizations; academic institutions; and the private sector. Duties of the committee include: (A) Advising on the contents of a national strategy identifying key science priorities to advance the management of natural resources in the face of climate change; (B) advising on the nature, extent, and quality of relations with and engagement of key partners at the regional/CSC level; (C) advising on the nature and effectiveness of mechanisms to ensure the identification of key priorities from management partners and to effectively deliver scientific results in useful forms; (D) advising on mechanisms that may be employed by the NCCWSC to ensure high standards of scientific quality and integrity in its products, and to review and evaluate the performance of individual CSCs, in advance of opportunities to re-establish expiring agreements; and (E) coordinating as appropriate with any Federal Advisory Committee established for the DOI Landscape Conservation Cooperatives. More information about the ACCCNRS is available at *https://nccwsc.usgs.gov/content/advisory-committee-climate-change-and-natural-resource-science-acccnrs.*

Meeting Agenda: The objectives of this meeting are to: (1) Provide ACCCNRS Members with a working understanding of the USGS National Climate Change and Wildlife Science Center and the DOI Climate Science Centers; (2) provide an overview of other federal climate science services and programs; (3) review the Committee's charge, scope, operating procedures, and ground rules; (4) review and solicit Committee input on the CSCs and NCCWSC approach to science and stakeholder engagement; and (5) define an agenda for future Committee meetings. The final agenda will be posted on *https://nccwsc.usgs.gov/content/advisory-committee-climate-change-and-natural-resource-science-acccnrs* prior to the meeting.

Public Input: All Committee meetings are open to the public. Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. The public will be able to make comment on Wednesday, September 18, 2013, from 5:00 p.m. to 5:15 p.m. and on Thursday, September 19, 2013, from 2:30 p.m. to 2:45 p.m.

Individuals or groups requesting to make comment at the public Committee meeting will be limited to 2 minutes per speaker. The Committee will endeavor to provide adequate opportunity for all speakers, within available time limits. Speakers who wish to expand upon their oral statements, or those who had wished to speak, but could not be accommodated during the public comment period, are encouraged to submit their comments in written form to the Committee after the meeting.

Written comments should be submitted, prior to, during, or after the meeting, to Mr. Robin O'Malley, Designated Federal Officer, by U.S. Mail to: Mr. Robin O'Malley, Designated Federal Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 400, Reston, VA 20192, or via email, at *romalley@usgs.gov.*

The meeting location is open to the public, and current, government issued, photo ID is required to enter. Space is limited, so all interested in attending should pre-register. Please submit your name, time of arrival, email address and phone number to Mr. Robin O'Malley via email at *romalley@usgs.gov,* or by phone at (703) 648–4086, by close of business on September 11, 2013. Please also notify Mr. O'Malley if you are unable to attend the meeting in person, but would be interested in joining virtually (e.g. conference phone and internet access to meeting presentations). Virtual meeting access will be available with sufficient interest. Persons with disabilities requiring special services, such as an interpreter for the hearing impaired, should contact Mr. O'Malley at (703) 648–4086 at least seven calendar days prior to the meeting. We will do our best to accommodate those who are unable to meet this deadline.

Dated: August 9, 2013.

Robin O'Malley,

Designated Federal Officer.

[FR Doc. 2013–19924 Filed 8–15–13; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO923000 L13400000.KH0000]

Notice of Competitive Auction for Solar Energy Development on Public Lands in the State of Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management's (BLM) Colorado State Office will accept competitive bids to select a preferred applicant to submit a right-of-way (ROW) application and a plan of development for solar energy projects on approximately 3,705 acres of public land in Saguache and Conejos Counties in Colorado.

DATES: The BLM will hold an oral auction at the BLM's Colorado State Office on October 24, 2013. Prior to the oral auction, sealed bids will be accepted and will be carried to the oral auction. Sealed bids must be received, not postmarked, by the BLM Colorado State Office to the address listed below on or before October 15, 2013. The oral auction will begin at 10 a.m., opening with the minimum bonus bid or the highest sealed bid over the minimum bonus bid, whichever is higher. Bidder registration begins at 9 a.m. In order to bid, you must provide the bidder's name and personal or business address. Each bid can only contain the name of one bidder (*i.e.,* citizen, association or partnership, corporation or municipality). An administrative fee of $48,169 is also required from each bidder for each parcel at registration. Sealed bids must include the same required information for registration. All registered bidders will be notified of the results of the oral auction within 10 calendar days of the bid closing. Bonus bids from the successful high bidder(s) must be deposited within 10 calendar days of notification. ROW applications, plans of development, and all associated information from the successful high bidder(s) must be received within 180 days of notification. If the successful high bidder does not deposit bonus bids or perfect their ROW application within the stated timeframes of this notice, the next highest bid will become the successful bidder.

ADDRESSES: Sealed bids, including all required administrative fee deposits and documentation must be submitted to the Bureau of Land Management, Attention: Maryanne Kurtinaitis, CO923, 2850 Youngfield Street, Lakewood, CO 80215. Electronic bid submissions will not be accepted. The BLM will hold the oral auction at the address listed above.

FOR FURTHER INFORMATION CONTACT: Maryanne Kurtinaitis, Renewable Energy Program Manager, by telephone at 303–239–3708 or by email at *mkurtina@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: BLM Colorado has received several solicitations of interest and ROW applications within two designated Solar Energy Zones (SEZ): Los Mogotes East SEZ and De Tilla Gulch SEZ. Applications for solar energy development are processed as ROW authorizations pursuant to Title V of the Federal Land Policy and Management Act. Existing regulations authorize the BLM to determine whether competition exists among ROW applications filed for the same facility or system. 43 CFR 2804.23. The regulations also allow the BLM to resolve any such competition by using competitive bidding procedures.

The BLM will use a competitive sealed and oral bid process to select a preferred applicant to submit a ROW application and plan of development for solar energy development in the Los Mogotes East SEZ and the De Tilla Gulch SEZ. The successful high bidder(s) for any of the parcels of public land offered by this notice must be prepared to submit a ROW application (SF–299) and a plan of development, consistent with the requirements of the regulations and within the timeframes specified in this notice. 43 CFR 2804.12 and 2803.10. Bidders may submit bid packages for one or all three parcels of public land described below.

The public lands made available by this notice include one parcel called De Tilla Gulch SEZ, consisting of approximately 1,064 acres of public land within sections 29, 30, 31, 32, and 33 of T. 45 N., R. 9 E., New Mexico Principal Meridian, Saguache County, Colorado. This parcel lies approximately 7 miles east of the town of Saguache, Colorado. The second parcel called Los Mogotes East SEZ (north parcel), consists of approximately 1,281 acres of public land within sections 1 and 12 of T. 34 N., R. 8 E., New Mexico Principal Meridian, Conejos County, Colorado. This parcel lies three miles west of the town of Romeo, Colorado. The third parcel

called Los Mogotes East SEZ (south parcel), consists of approximately 1,360 acres of public land within sections 13, 24, and 25 of T. 34 N., R. 8 E., New Mexico Principal Meridian, Conejos County, Colorado. This parcel lies 3 miles west of the town of Romeo, Colorado. Detailed information about the SEZs, including maps, can be viewed and downloaded at: *http://solareis.anl.gov/maps/index.cfm.*

If you are submitting a sealed bid prior to the oral auction, all bidding documents must be enclosed in a sealed envelope with your name and return address on the outside. Include the following notation on the front lower left hand corner: SEALED BID—DO NOT OPEN. An administrative fee of $48,169 is also required for each parcel for sealed bids and at registration from each bidder for the oral auction in the form of a cashier's or certified check made payable to the ''Bureau of Land Management.'' A minimum bonus bid has also been determined for each parcel. The minimum bonus bid represents 5 percent of the rent value of the land for 1 year ($63 per acre for Saguache and Conejos counties) under the BLM's interim solar rental policy and is based on the interests acquired by a preferred applicant to file a ROW application in a SEZ. Minimum bonus bids for the three parcels are: De Tilla Gulch—$3,352; Los Mogotes East (north parcel)—$4,035; and Los Mogotes East (south parcel)—$4,284. Bidders must use a bid statement to identify the bonus amount the bidder will pay for the right to submit a ROW application and plan of development. The bonus bid must meet or exceed the minimum bonus bid amount identified above for each parcel. The bid statement format and a complete description of the bid process are contained in an Invitation for Bids package available on the BLM Colorado Web site at: *http://www.blm.gov/co/st/en/BLM_Programs/energy/renewable_energy.html.*

The high bidder(s) will become the successful bidder(s) and must deposit the bonus bid specified in the bid statement within 10 calendar days of notification by the BLM that they are the successful bidder. Upon the BLM's acceptance of the bonus bid specified in the bid statement, the successful bidder will become the preferred ROW applicant. The required administrative fee of the successful bidder(s) will be retained by the agency to recover administrative costs for conducting the competitive bid process. The bonus bid will be deposited with the U.S. Treasury. Neither amount will be returned or refunded to the successful high bidder(s) under any circumstance. All deposits made by unsuccessful bidders will be returned, without interest, upon the BLM's acceptance of the high bidder's bonus bid.

If there is no bid received for a parcel, then no preferred ROW applicant will be identified and no application will be processed for solar energy development under the procedures listed in this notice. If the BLM is unable to determine the successful bidder, such as in the case of a tie, the BLM may re-offer the lands competitively to the tied bidders, or to all prospective bidders.

The BLM will notify the successful high bidder(s) of the right to submit a ROW application and plan of development within 180 calendar days of the bid closing. Preferred ROW applicants will be required to reimburse the United States for the cost of processing an application consistent with the requirements of the regulations at 43 CFR 2804.14. The fees are based on the amount of time the BLM estimates it will take to process the ROW application and issue a decision. The BLM will begin processing the ROW application once the cost recovery fees are received as required by the regulations.

Authority: 43 CFR 2804.23.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–20036 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Alpine Satellite Development Plan for the Proposed Greater Mooses Tooth Unit Development Project, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), the Federal Land Policy and Management Act of 1976, as amended, and the Alaska National Lands Interest Conservation Act of 1980 (ANILCA), as amended, the Bureau of Land Management (BLM) Arctic Field Office, Fairbanks, Alaska, intends to prepare a Supplemental Environmental Impact Statement (EIS) for development of petroleum resources in the Greater Mooses Tooth (GMT) Unit, at the proposed GMT1 drilling and production pad. The Supplemental EIS is being prepared for the limited purpose of supplementing the Alpine Satellite Development Plan (ASDP) Final EIS, dated September 2004, regarding the establishment of satellite oil production pads and associated infrastructure within the Alpine field.

DATES: Scoping comments may be submitted in writing until September 6, 2013. At this time, the BLM has determined not to hold public scoping meetings. If the BLM determines, after consultation with cooperating agencies, that public scoping meetings are appropriate, the BLM will schedule these meetings and provide appropriate public notice. The BLM will provide additional opportunities for public participation upon publication of the Draft Supplementary EIS, including public meetings and a public comment period. Any Federal, State, local agencies, or tribes that are interested in serving as a cooperating agency for the development of the Supplemental EIS are asked to submit such requests to the BLM by September 6, 2013.

ADDRESSES: You may submit comments on issues related to the proposed GMT1 Development Project by any of the following methods:

- *Email: BLM_AK_AKSO_GMT_1_Comments @blm.gov.*
- *Fax:* 907–271–5479
- *Mail:* GMT1 Scoping Comments, 222 West 7th Avenue, Stop #13, Anchorage, AK 99513.

Documents pertinent to this proposal may be examined at the Fairbanks District Office Public Room, 1150 University Avenue, Fairbanks, AK 99709; and the Alaska State Office Public Room, 222 West 7th Avenue, Anchorage, AK 99513.

FOR FURTHER INFORMATION CONTACT: Bridget Psarianos, Project Lead; telephone: 907–271–4208; address: 222 West 7th Avenue, Stop #13, Anchorage, AK 99513. Contact Ms. Psarianos if you wish to add your name to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: On July 22, 2013, ConocoPhillips, Alaska, Inc. (CPAI) submitted an application with the BLM for issuance of a right-of-way grant and related authorizations to construct, operate, and maintain a drill site, access road, pipelines, and ancillary facilities to support development of petroleum resources

within the GMT Unit. The proposed project is located in the National Petroleum Reserve in Alaska (NPR–A). The GMT1 project would facilitate the first production of oil and gas from Federal lands in the NPR–A, which is located on Alaska's North Slope and encompasses approximately 22.1 million acres of public land. The BLM holds surface ownership of the drill site location, and the majority of the infield road and pipeline route. CPAI proposes placement of fill material on 73.1 acres to construct the GMT1 drill site, an approximately 7.8-mile-long gravel access road from the CD–5 pad currently under development to the GMT1 drill site including a spur to a pipeline valve, pipelines, bridge abutment, communication equipment, and power lines for oil and gas production. The proposed GMT1 site is approximately 14 miles west of the ConocoPhillips-operated Alpine Central Facility (CD–1). Oil, gas, and water produced from the reservoir would be carried via pipeline to CD–1 for processing. Sales quality crude would be transported from CD–1 via pipeline to the Trans-Alaska Pipeline. Gravel required for construction of the drill site and access road would be obtained from the Clover Material Source, also located within the NPR–A on BLM-managed lands. The proposed drill site would be operated and maintained by Alpine staff and supported using CD–1 infrastructure. The proposed GMT1 pad would be approximately 11.8 acres, and may consist of approximately 33 wells.

The purpose of the Supplemental EIS is to evaluate any relevant new circumstances and information which have arisen since the ASDP Final EIS was issued in September 2004, as well as to address any changes to CPAI's proposed development plan for GMT1. The GMT1 project was referred to as CD–6 in the ASDP Final EIS.

New information includes multi-year studies on hydrology, birds, and caribou, a regional climate change assessment for NPR–A, and more information on the material site (potential gravel source). Earlier this year the BLM adopted a new Integrated Activity Plan (IAP) for NPR–A, which contains new protective measures. Additionally, the polar bear has since been listed as threatened under the Endangered Species Act and critical habitat has been proposed. The currently proposed GMT1 Project is very similar to the project approved in the November 2004 Record of Decision for the ASDP Final EIS, with several notable changes, which include: A relocated drill site and reduced road and pipeline length as a result of the drill site relocation; increased length of the Ublutuoch River bridge; reduced Clover material source; an additional 3.3 miles of ancillary pipeline from CD1 to the pipeline tie-in north of CD4; and a redesigned pipeline to provide space for a future pipeline of up to 24-inches in diameter.

At present, the BLM has identified the following preliminary issues for evaluation in the Supplemental EIS: Air quality and climate change impacts; biological resources, including special status species; cultural resources; geology and soils; hydrology and water quality; and reasonably foreseeable future activities, such as a drilling program at proposed GMT2, which was also evaluated as part of the 2004 ASDP EIS.

The BLM will use NEPA public participation processes to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Federally Recognized Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, and tribes that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the development of the environmental analysis as a cooperating agency.

Authority: 40 CFR 1502.9, 43 CFR part 2880.

Ted Murphy,

Acting State Director.

[FR Doc. 2013–20030 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON00000 L16100000.DP0000]

Notice of Availability of the Northwest Colorado Greater Sage-Grouse Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for the Northwest Colorado District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Northwest Colorado Greater Sage-Grouse Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the Northwest Colorado District (NWD) and by this notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes notice of the Draft RMP Amendment/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Northwest Colorado Greater Sage-Grouse Draft RMP Amendment/Draft EIS by any of the following methods:

- *Web site: https://www.blm.gov/epl-front-office/eplanning/lup/lup_register.do.*
- *Email: blm_co_nw_sage_grouse@blm.gov.*
- *Fax:* 970–244–3083.
- *Mail:* BLM—Greater Sage Grouse EIS, 2815 H Road, Grand Junction, CO 81506.

Copies of the NWD Greater Sage-Grouse Draft RMP Amendment/Draft EIS are available at the NWD Office at the above address or on the Web site at: *http://www.blm.gov/co/st/en/BLM_Programs/wildlife/sage-grouse.html.*

FOR FURTHER INFORMATION CONTACT: Erin Jones, NWD NEPA Coordinator, telephone 970–244–3008; see address above; email *erjones@blm.gov.* Persons who use a telecommunications device

for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM prepared the Northwest Colorado Greater Sage-Grouse Draft RMP Amendment and Draft EIS to address a range of alternatives focused on specific conservation measures across the Northwest Colorado range of the Greater Sage-Grouse (GRSG). This Draft RMP Amendment/Draft EIS is one of 15 separate planning efforts that are being undertaken as part of the BLM's and U.S. Forest Service's National Greater Sage-Grouse Planning Strategy. The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for the Colorado River Valley, Grand Junction, Kremmling, Little Snake, and White River field offices, as well as the Land and Resource Management Plan (LRMP) for the Routt National Forest. The current management decisions for resources are described in the following RMPs/LRMPs:

- Glenwood Springs RMP (1984)
- Grand Junction RMP (1987)
- Kremmling RMP (1984)
- Little Snake RMP (2011)
- White River RMP (1997)
- Routt National Forest LRMP (1997)

The planning area includes approximately 8 million acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands located in northwestern Colorado, in 10 counties (Eagle, Garfield, Grand, Jackson, Larimer, Mesa, Moffat, Rio Blanco, Routt, and Summit). Within the decision area, the BLM and U.S. Forest Service administer approximately 1.6 million surface acres and 2.7 million acres of Federal oil and gas mineral (subsurface) estate. Surface management decisions made as a result of this Draft RMP Amendment/Draft EIS will apply only to the BLM and U.S. Forest Service-administered lands in the decision area. The decision area is defined as those BLM and U.S. Forest Service-administered lands and Federal mineral estate within three categories of habitat identified by Colorado Parks and Wildlife:

- Preliminary Priority Habitat (PPH)—Areas identified as having the highest conservation value to maintaining sustainable GRSG populations; include breeding, late brood-rearing and winter concentration areas.
- Preliminary General Habitat (PGH)—Areas of seasonal or year-round habitat outside of priority habitat.
- Linkage/Connectivity Habitat—Areas identified as broader regions of connectivity important to facilitate the movement of GRSG and maintain ecological processes.

The formal public scoping process for the RMP Amendment/EIS began on December 9, 2011, with the publication of a Notice of Intent in the **Federal Register** (76 FR 77008), and ended on March 23, 2012. The BLM held four scoping open houses in January and February 2012. The BLM used public scoping comments to help identify planning issues that directed the formulation of alternatives and framed the scope of analysis in the Draft RMP Amendment/Draft EIS. The scoping process was also used to introduce the public to preliminary planning criteria, which set limits on the scope of the Draft RMP Amendment/Draft EIS.

Major issues considered in the Draft RMP Amendment/Draft EIS include special status species management (GRSG specifically), energy development, lands and realty (including transmission), and livestock grazing.

The Draft RMP Amendment/Draft EIS evaluates four alternatives in detail, including the No Action Alternative (Alternative A) and three action alternatives (Alternatives B, C and D). The BLM identified Alternative D as the preferred alternative. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment may reflect changes or adjustments based on information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP may include objectives and actions described in the other analyzed alternatives or otherwise within the spectrum of alternatives analyzed.

Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs for each field office and the LRMP for the Routt National Forest. Alternative B includes conservation measures from the Sage-grouse National Technical Team Report. Alternative C includes conservation measures various conservation groups submitted to the BLM. Alternative D includes conservation measures the BLM developed with the cooperating agencies.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period on proposed Areas of Critical Environmental Concern (ACEC). One ACEC is proposed in Alternative C. The Sage-grouse Habitat ACEC (approximately 910,000 acres) would include the following resource use limitations if it were formally designated:

Close to fluid mineral leasing; designate as a Right-of-Way exclusion area; close to livestock grazing; allow vegetation treatments only for the benefit of GRSG; and recommend for withdrawal from mineral entry.

Please note that public comments and information submitted including names, street addresses and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–19837 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT030000–L17110000–PH0000–24–1A]

Grand Staircase-Escalante National Monument Monument Advisory Committee; Meeting/Conference Call

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting/Conference.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM), Grand Staircase-Escalante National Monument (GSENM) Monument Advisory Committee (MAC) will host a meeting/conference call.

DATES: The GSENM MAC will host a meeting/conference call on Tuesday,

Sept. 24, 2013, from 10 a.m.–12 p.m. MDT.

ADDRESSES: Those attending in person should meet at the GSENM Headquarters, 669 South Highway 89A, Kanab, Utah, in the Cottonwood Conference Room located off the lobby.

FOR FURTHER INFORMATION CONTACT: Public participants wishing to listen to the conference call, orally present material during the teleconference, or submit written material for the GSENM MAC to consider during the teleconference should notify Larry Crutchfield, Public Affairs Officer, Grand Staircase-Escalante National Monument, 669 South Highway 89A, Kanab, Utah 84741; phone (435) 644–1209; or email *lcrutchf@blm.gov* by Friday, Sept. 20, 2013. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question with the above individual. The FIRS is available 24 hours a day, seven days a week. Replies will be received during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member GSENM MAC was appointed by the Secretary of the Interior on August 2, 2011, pursuant to the Monument Management Plan (MMP), FLPMA, and the Federal Advisory Committee Act of 1972. As specified in the MMP, the GSENM MAC has several primary tasks: (1) Review evaluation reports produced by the Management Science Team and make recommendations on protocols and projects to meet overall objectives; (2) Review appropriate research proposals and make recommendations on project necessity and validity; (3) Make recommendations regarding allocation of research funds through review of research and project proposals as well as needs identified through the evaluation process above; and, (4) Could be consulted on issues such as protocols for specific projects.

Topics to be discussed by the GSENM MAC during this meeting/conference call include review of the GSENM Campground and Day Use Business Plan, formulation of a land health subcommittee to assist with the development of the MMP amendment, future meeting dates and other matters as may reasonably come before the GSENM MAC. A public comment period will take place immediately following the business meeting. The meeting is open to the public; however, transportation, lodging, and meals are the responsibility of the participating public. The conference call will be recorded for purposes of minute-taking.

Authority: 43 CFR 1784.4–1.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2013–19938 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY930000–L16100000–DS0000]

Notice of Intent To Extend the Public Scoping Period for the Rock Springs Resource Management Plan (RMP) and To Amend the 2008 Rawlins RMP To Address Wild Horse and Burro Management in the Rock Springs and Rawlins Field Offices, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) intends to extend the scoping period for an additional 30 days for the ongoing Rock Springs RMP, which was initiated on February 2, 2011, to address wild horse and burro management in the Rock Springs Field Office and to amend the 2008 Approved Rawlins RMP for the Adobe Town Herd Management Area in the Rawlins Field Office in Wyoming. The BLM, by this notice, is announcing the beginning of the scoping process to solicit public comments and identify issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process for wild horse and burro management.

DATES: This notice extends the scoping period initiated on February 2, 2011 for wild horse and burro management in the ongoing Rock Springs RMP and associated environmental impact statement (EIS) and initiates the public scoping process for wild horse and burro management for the Adobe Town Herd Management Area (HMA) for the amendment of the 2008 Approved Rawlins RMP.

Comments on issues relating to these two planning efforts may be submitted in writing until September 16, 2013. Two public scoping meetings concerning wild horse and burro management will be held in Rock Springs and Rawlins, Wyoming. The meeting times and addresses will be announced through the local news media, newspapers, and the BLM Web site at *http://www.blm.gov/wy/st/en/programs/Planning/rmps/RockSprings.html* at least 15 days prior to the event. In order to be included in the Draft Rock Springs RMP/EIS, all comments must be received prior to the close of the scoping period or 15 days after the last public scoping meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft Rock Springs RMP/EIS.

ADDRESSES: You may submit comments on issues and planning criteria related to the Rock Springs RMP/EIS and an amendment to the Rawlins RMP by any of the following methods:

Web site: http://www.blm.gov/wy/st/en/programs/Planning/rmps/RockSprings.html;

Email: RockSpringsRMP_WY@blm.gov. Include ''Wild Horses'' in the subject line of the message;

Fax: 307–352–0329; or

Mail: BLM Rock Springs Field Office, Wild Horse Scoping, 280 Highway 191 North, Rock Springs, Wyoming 82901.

Documents pertinent to this proposal may be examined at the BLM Rock Springs Field Office, during normal business hours: 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Jay D'Ewart, Wild Horse and Burro Specialist, at 307–352–0331. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to speak with Jay D'Ewart during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: On June 27, 2011, the Rock Springs Grazing Association (RSGA) filed a lawsuit (*Rock Springs Grazing Association* v. *Salazar,* No. 11–CV–00263–NDF) in the United States District Court for Wyoming contending, in part, that the BLM had violated Section 4 of the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. 1334, by failing to remove strayed animals from private lands controlled by RSGA within the Wyoming checkerboard pattern of mixed public and private land ownership. RSGA-controlled private lands include lands within the BLM's Rock Springs and Rawlins management areas in the Adobe Town, Great Divide Basin, Salt Wells Creek, and White Mountain HMAs.

On April 3, 2013, the United States District Court for the District of Wyoming approved a Consent Decree and Joint Stipulation for Dismissal (Consent Decree) in *Rock Springs Grazing Association* v. *Salazar,* No. 11–CV–00263–NDF, that provides in part, ''No later than 180 days after this Consent Decree is approved by the Court, BLM will submit to the **Federal Register** for publication a notice[s] of scoping under NEPA to consider the environmental effects of revising the respective Resource Management Plans for the Rock Springs and Rawlins Field Offices by considering proposed actions that would: (a) Change the Salt Wells [Creek] HMA [Herd Management Area] to a Herd Area, which would be managed for zero wild horses, and if BLM determines there are more than 200 wild horses within the Herd Area, the area will be re-gathered to zero wild horses; (b) Change the [Great] Divide Basin HMA to a Herd Area, which would be managed for zero wild horses, and if BLM determines there are more than 100 wild horses within the Herd Area, the area will be re-gathered to zero wild horses; (c) Change the Adobe Town HMA [Appropriate Management Level] AML to 225–450 wild horses or lower, and that gathered wild horses will not be returned to the Salt Wells area; and (d) Manage the White Mountain HMA as a non-reproducing herd by utilizing fertility control and sterilization methods to maintain a population of 205 wild horses and to initiate gathers if the population exceeds 205 wild horses.'' Consent Decree, No. 11–CV–00263–NDF, pp. 6–7.

You may submit comments on issues and planning criteria in writing to the BLM using one of the methods listed in the **ADDRESSES** section. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Mary Jo Rugwell,

Associate State Director.

[FR Doc. 2013–19841 Filed 8–15–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13515; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of Colorado Museum of Natural History, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Colorado Museum of Natural History, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the University of Colorado Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the University of Colorado Museum of Natural History at the address in this notice by September 16, 2013.

ADDRESSES: Jen Shannon, Curator of Cultural Anthropology, University of Colorado Museum of Natural History, 218 UCB, Boulder, CO 80309–0218, telephone (303) 492–6276, email *jshannon@colorado.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the University of Colorado Museum of Natural History, Boulder, CO that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

Beginning in 1926, Reverend Harold Case acquired everyday objects as well as traditional, religious, and ceremonial items, through gifts, purchases, and items left for collateral by Mandan, Hidatsa, and Arikara individuals living on and near the Fort Berthold Reservation. In 1983, over 300 items from the Case collection were donated to the University of Colorado Museum of Natural History. After extensive consultation, official representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota submitted a repatriation claim for five items. The five sacred objects are pipes. The pipe represented by catalog number 33032 is comprised of a red pipestone bowl with a lead inlay and wood stem, which is decorated with black banding. The pipe represented by catalog number 33035 is comprised of a red pipestone bowl and stem, which are joined by a wooden connector. The pipe represented by catalog number 33043 is comprised of a red pipestone bowl and wood stem. The pipe represented by catalog number 33047 is comprised of a black pipestone bowl and wood stem, which is decorated with red, white and blue quillwork, as well as red and yellow ribbons. The pipe represented by catalog number 33049 is comprised of a black pipestone bowl and wood stem, which is decorated with knobby protrusions and a black amorphous pattern.

The provenance of the pipes supports cultural affiliation to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, which is comprised of Mandan, Hidatsa and Arikara peoples. Historic evidence provided during consultation also supports cultural affiliation with the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Determinations Made by the University of Colorado Museum of Natural History

Officials of the University of Colorado Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the five cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Jen Shannon, Curator of Cultural Anthropology, University of Colorado Museum of Natural History, 218 UCB, Boulder, CO 80309–0218, telephone (303) 492–6276, email *jshannon@colorado.edu,* by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may proceed.

The University of Colorado Museum of Natural History is responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota that this notice has been published.

Dated: July 18, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20061 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13620; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Washington State Parks and Recreation Commission, Olympia, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Washington State Parks and Recreation Commission, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Washington State Parks and Recreation Commission. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Washington State Parks and Recreation Commission at the address in this notice by September 16, 2013.

ADDRESSES: Alicia Woods, Washington State Parks and Recreation Commission, PO Box 42650, Olympia, WA 98504–2650, telephone (360) 902–0939, email *Alicia.Woods@parks.wa.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Washington State Parks and Recreation Commission, Olympia, WA that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

Between 1950 and 1953, 29 cultural items were removed from the site 45–SP–5 in Spokane County, WA, by Louis R. Caywood with the National Park Service and under a contract with the Washington State Parks and Recreation Commission. At the time of removal, the Washington State Parks and Recreation Commission signed a Memorandum of Agreement releasing custody and control over all excavated material from the site to the Eastern Washington State Historical Society (EWSHS), now known as the Northwest Museum of Arts and Culture. In 1989, the EWSHS de-accessioned the objects, and transferred them to the Washington State Parks and Recreation Commission. The funerary objects listed in this notice were identified in 2005, and were transferred to the Washington State Parks and Recreation Commission headquarters in Olympia, WA. The 29 unassociated funerary objects are 7 pieces of stone and shell; 20 whole and fragmented perforated faunal teeth; 1 perforated seed; and 1 ornamental rifle side plate.

Between 1962 and 1963, nine cultural items were removed from site 45–SP–5 in Spokane County, WA, by John D. Combes with Washington State University (WSU) and under a contract with the Washington State Parks and Recreation Commission. These objects originate from two identified burials and were excavated at the same time as the corresponding human remains, although the human remains are not present in the collection. At the time of removal, the Washington State Parks and Recreation Commission released custody and control over all excavated material to WSU. It is not known when the Washington State Parks and Recreation Commission took custody of the unassociated funerary objects from this site. The funerary objects listed in this notice were identified in 2006, and were transferred to the Washington State Parks and Recreation Commission headquarters in Olympia, WA. The 9 unassociated funerary objects are 1 hammerstone; 2 modified shells; 2 stone tools; 2 stone flakes; and 2 shell fragments.

The site is a burial ground that dates from before 1812 to approximately 1885. Based on the material recovered from a small percentage of the overall number of burials, it would appear the burials are associated with the ''immediate pre-contact, fur trade, or post-fur trade periods'' (Luttrell, 2011). These dates are supported by first-person accounts of the types and styles of burials during and following the fur trade era (Cox, 1957; Luttrell, 2011; Williams, 1922). All 38 unassociated funerary objects came from the burial ground at site 45–SP–5 and specifically from graves of people who were of Native American ancestry.

The Washington State Parks and Recreation Commission staff has determined there is a relationship of shared group identity between the unassociated funerary objects and the modern day tribes of the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation. This determination is based on ethnographic evidence that the Upper and Middle Spokane people predominantly resided in the area and utilized the resources of this site in the pre- and post-contact period. Connections between the three groups included intermarriage between the Spokane and Kalispel people and the Spokane and Coeur d'Alene people as well as shared linguistic heritage, overlapping trade networks, battle alliances, shared resource protection, cooperative hunting parties, and shared burial practices (especially between the Spokane and Kalispel peoples) (Fahey, 1986; Luttrell, 2011; Ruby and Brown, 1970 & 1981; Walker, 1998).

Additionally, during consultation with the Spokane Tribe, representatives stated the site is a part of their people's traditional territory, and the burial ground is a sacred place of their people.

Determinations Made by the Washington State Parks and Recreation Commission

Officials of the Washington State Parks and Recreation Commission have determined that:

• Pursuant to 25 U.S.C. 3001(3)(B), the 38 unassociated funerary objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Alicia Woods, Washington State Parks and Recreation Commission, PO Box 42650, Olympia, WA 98504–2650, telephone (360) 902.0939, email *Alicia.Woods@parks.wa.gov,* by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation may proceed.

The Washington State Parks and Recreation Commission is responsible for notifying the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation that this notice has been published.

Dated: July 24, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20044 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13614: PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: U.S. Department of the Interior, National Park Service, Grand Teton National Park, Moose, WY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Grand Teton National Park, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to Grand Teton National Park. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Grand Teton National Park at the address in this notice by September 16, 2013.

ADDRESSES: Mary Gibson Scott, Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, WY 83012, telephone (307) 739–3410, email *mary_gibson_scott@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the U.S. Department of the Interior, National Park Service, Grand Teton National Park, Moose, WY, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Grand Teton National Park.

History and Description of the Cultural Items

During the 1920s–1950s, David T. Vernon purchased, from native people and collectors, more than 1,400 items of Native American art and artifacts representing more than 100 North American tribes. In 1968, part of his collection, including the cultural items, was sold by David T. Vernon to the Jackson Hole Preserve, Inc. On December 13, 1976, Laurance S. Rockefeller, President of the Jackson Hole Preserve, Inc., donated the David T. Vernon Collection to Grand Teton National Park. The three sacred objects are two masks of braided cornhusks with cornhusk fringes and one triangular rattle made from a piece of elm bark.

The three cultural items came from the Seneca Nation of Indians (previously listed as the Seneca Nation of New York) and the societies to which they belong are still active in the Allegany and Cattaraugus communities. The sacred objects are needed by the still functioning Husk Face Society common to the Newtown Longhouse of the Cattaraugus community and Cold Spring Longhouse of the Allegany community.

Determinations Made by Grand Teton National Park

Officials of Grand Teton National Park have determined that:

• Pursuant to 25 U.S.C. 3001(3)(C), the three cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

• Pursuant to 25 U.S.C 3001 (2) there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Seneca Nation of Indians (previously listed as the Seneca Nation of New York).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Mary Gibson Scott, Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, WY 83012, telephone (307) 739–3410, email *mary_gibson_scott@*

nps.gov, by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Seneca Nation of Indians (previously listed as the Seneca Nation of New York) may proceed.

Grand Teton National Park is responsible for notifying the Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Oklahoma; and Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York) that this notice has been published.

Dated: July 23, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20063 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13637; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent to Repatriate a Cultural Item: Field Museum of Natural History, Chicago, IL; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Field Museum of Natural History has corrected a Notice of Intent to Repatriate published in the **Federal Register** on March 7, 2003. This notice removes the language surrounding right of possession and compromise of claim provisions that the Museum previously asserted were necessary for this repatriation to occur. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Field Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Field Museum of Natural History at the address in this notice by September 16, 2013.

ADDRESSES: Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 S Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Field Museum of Natural History that meets the definition of sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

This notice removes the language surrounding right of possession and compromise of claim provisions published in a Notice of Intent to Repatriate in the **Federal Register** (68 FR 11136, March 7, 2003). The Museum no longer asserts that these provisions are necessary for the repatriation to occur and is removing them from the notice. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (68 FR 11136, March 7, 2003), paragraph eight is corrected by removing the entire paragraph from the notice.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 S Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the sacred object to the Ho-Chunk Nation of Wisconsin may proceed.

The Field Museum of Natural History is responsible for notifying the Ho-Chunk Nation of Wisconsin and the Winnebago Tribe of Nebraska that this notice has been published.

Dated: July 25, 2013.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–19994 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13514; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Maxey Museum, Walla Walla, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Maxey Museum has completed an inventory of human remains in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Maxey Museum. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Maxey Museum at the address in this notice by September 16, 2013.

ADDRESSES: Gary Rollefson, Maxey Museum, Whitman College, 345 Boyer Avenue, Walla Walla, WA 99362, telephone (509) 527–4938, email *rollefgo@whitman.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Maxey Museum, Walla Walla, WA. The human remains were removed from the Whitman College Biology Department, Walla Walla County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Maxey Museum professional staff in consultation with representatives of Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); and the Wanapum Band, a non-Federally recognized Indian group.

History and Description of the Remains

From May 2010 through May 2013, during the course of renovations in the laboratory storage facility of the Biology Department at Whitman College, in Walla Walla County, WA, the Biology Department asked the Maxey Museum at Whitman College to determine whether any of the human remains in the Biology Department's laboratory specimen teaching collections were Native American. Some of the human remains have been in the Biology Department's teaching collections since 1928. Due to the extensive dissection of the remains, it is difficult to determine the exact number of individuals represented in the collection. Maxey Museum NAGPRA Coordinator and Professor of Archaeology Gary Rollefson reviewed the human remains and determined that some of them might be Native American. In consultation with tribal representatives, the Maxey Museum conducted analysis to determine which, if any, human remains were Native American, as well as the cultural affiliation of those human remains identified as Native American.

The analysis resulted in a determination that the Biology Department's teaching collections included human remains representing, at minimum, 25 Native American individuals. The human remains were determined to be Native American through records kept upon their donation and by the nature of their antiquity. These Native American human remains were removed from the Biology Department and transferred to the Maxey Museum. No known individuals were identified. No associated funerary objects are present.

Many of the human remains have characteristics common to the Columbia River Plateau tribes, including occipital flattening, green residue staining from copper jewelry, and heavy tooth wear from eating foods that have been ground with stone tools or from eating foods that have been gritted with sand. Details about other characteristics can be found in reports dated May 2010, March 2013, and May 2013 on file at the Maxey Museum. Based upon the findings and characteristics described in these reports, the human remains have been determined to be culturally affiliated with the Columbia River Plateau tribes.

The Columbia River Plateau tribes are the Native people that used the lower Snake and Columbia Rivers jointly. Treaties were negotiated and signed with the Native communities during the expansion of the Washington and Oregon territories. The Native peoples in these United States territories were removed from the shores of the Columbia and Snake Rivers and their tributaries to the Colville, Umatilla, Yakama, Warm Springs, and Nez Perce reservations. These actions resulted in the splintering of family groups and the subsequent intermarriage of individual families from these reservations which further strengthened existing cultural affiliation between the bands and tribes. Cultural affiliation is further reinforced by living, enrolled members that have documented their ancestors buried along the lower Snake and Columbia Rivers. Today, the Columbia River Plateau tribes are represented by the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); and the Wanapum Band, a non-Federally recognized Indian group.

Determinations Made by the Museum

Officials of the Maxey Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of a minimum of 25 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); and the Wanapum Band, a non-Federally recognized Indian group.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Gary Rollefson, Maxey Museum, Whitman College, 345 Boyer Avenue, Walla Walla, WA 99362, telephone (509) 527–4938, email *rollefgo@whitman.edu* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); and the Wanapum Band, a non-Federally recognized Indian group (if joined with one or more of these Indian tribes) may proceed.

The Maxey Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); and the Wanapum Band, a non-Federally recognized Indian group, that this notice has been published.

Dated: July 23, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–19993 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13600; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: History Colorado, Formerly Colorado Historical Society, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: History Colorado, formerly Colorado Historical Society, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to History Colorado. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to History Colorado at the address in this notice by September 16, 2013.

ADDRESSES: Sheila Goff, NAGPRA Liaison, History Colorado, 1200 Broadway, Denver, CO 80203, telephone (303) 866–4561, email *sheila.goff@state.co.us.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of History Colorado, Denver, CO. Four sets of remains were received from the Mesa County Coroner and one set of remains was received from the Park County Coroner. The exact locations from which the sets of human remains were recovered are unknown.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by History Colorado professional staff in consultation with representatives of the Arapaho Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota); Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Zia, New Mexico; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; Ysleta del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. The Apache Tribe of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Tribe of Montana; Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo); Pueblo of Cochiti, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Tesuque, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; San Juan Southern Paiute Tribe of Arizona; Shoshone-Bannock Tribes of the Fort Hall Reservation; Standing Rock Sioux Tribe of North & South Dakota; and the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah, were invited to consult, but did not participate. Hereafter, all tribes listed above are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

At an unknown date, human remains representing, at minimum, four individuals were removed from an unknown location or locations by a private citizen. In June 2012, the human remains were found in a private home in Mesa County, CO, and were turned over to law enforcement authorities. The private citizen had previously lived in several cities in Colorado, including Alamosa, Durango, Cory, and Whitewater. Subsequently, the Mesa County Coroner ruled out a forensic interest in the human remains and turned them over to the Office of the State Archaeologist (OSAC), where they are identified as Office of Archaeology and Historic Preservation (OAHP) Case Number 289. Osteological analysis by Dr. Catherine Gaither indicates that the human remains are consistent with archaeological materials and are likely of Native American ancestry. No known individuals were identified. Pottery sherds and fossils were found in the box with the remains, but their relationship to the remains is unknown, and they are not considered associated funerary objects.

In June 2012, human remains representing, at minimum, one individual were found by a highway survey worker between two rocks at the side of the road. The worker contacted the Park County Sheriff who, along with the Park County Coroner, ruled out a forensic interest in the human remains. Osteological analysis by Dr. Catherine Gaither indicates the remains are consistent with archaeological materials and are likely of Native American ancestry. The remains were transferred to the OSAC, where they are identified as OAHP Case Number 291. No known individuals were identified. No associated funerary objects are present.

History Colorado, in partnership with the Colorado Commission of Indian Affairs, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, conducted tribal consultations among the tribes with ancestral ties to the State of Colorado to develop the process for disposition of culturally unidentifiable Native American human remains and associated funerary objects originating from inadvertent discoveries on Colorado State and private lands. As a result of the consultation, a process was developed, *Process for Consultation, Transfer, and Reburial of Culturally*

Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands, (2008, unpublished, on file with the Colorado Office of Archaeology and Historic Preservation). The tribes consulted are those who have ancestral ties to Colorado, based on the limited provenience information.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On November 3–4, 2006, the *Process* was presented to the Review Committee for consideration. A January 8, 2007, letter on behalf of the Review Committee from the Designated Federal Officer transmitted the provisional authorization to proceed with the *Process* upon receipt of formal responses from the Jicarilla Apache Nation, New Mexico, and the Kiowa Indian Tribe of Oklahoma, subject to forthcoming conditions imposed by the Secretary of the Interior. On May 15–16, 2008, the responses from the Jicarilla Apache Nation, New Mexico, and the Kiowa Indian Tribe of Oklahoma were submitted to the Review Committee. On September 23, 2008, the Assistant Secretary for Fish and Wildlife and Parks, as the designee for the Secretary of the Interior, transmitted the authorization for the disposition of culturally unidentifiable human remains according to the *Process* and NAGPRA, pending publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

43 CFR 10.11 was promulgated on March 15, 2010, to provide a process for the disposition of culturally unidentifiable Native American human remains recovered from tribal or aboriginal lands as established by the final judgment of the Indian Claims Commission or U.S. Court of Claims, a treaty, Act of Congress, or Executive Order, or other authoritative governmental sources. As there is no evidence indicating that the human remains reported in this notice originated from tribal or aboriginal lands, they are eligible for disposition under the *Process.*

Determinations Made by History Colorado

Officials of History Colorado have determined that:

- Based on osteological analysis, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11(c)(2)(ii) and the *Process,* the disposition of the human remains may be to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Sheila Goff, NAGPRA Liaison, History Colorado, 1200 Broadway, Denver, CO 80203, telephone (303) 866–4531, email *sheila.goff@state.co.us* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed.

History Colorado is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: July 22, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20062 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13490; [PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Casa Grande Ruins National Monument, Coolidge, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Casa Grande Ruins National Monument has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Casa Grande Ruins National Monument. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Casa Grande Ruins National Monument at the address in this notice by September 16, 2013.

ADDRESSES: Karl Cordova, Superintendent, Casa Grande Ruins National Monument, 1100 W Ruins Drive, Coolidge, AZ 85128, telephone (520) 723–3172, email *karl_cordova@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, National Park Service, Casa Grande Ruins National Monument, Coolidge, AZ. The human remains and associated funerary objects were removed from Casa Grande Ruins National Monument, Pinal County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Casa Grande Ruins National Monument.

Consultation

A detailed assessment of the human remains was made by Casa Grande Ruins National Monument professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa

Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In 1930, human remains representing, at minimum, 16 individuals were removed from Compound F in Pinal County, AZ. The Compound F site lies within the boundaries of Casa Grande Ruins National Monument and was excavated by the Van Bergen Expedition from the Los Angeles County Museum of Natural History (LACMNH). The excavation was sponsored by Charles Van Bergen and supervised by Arthur Woodward and Irwin Hayden. In 1968, the Compound F collection was loaned to the Arizona State Museum (ASM) and in 1983, the human remains were analyzed by the Human Remains Laboratory of ASM. The collection was returned to LACMNH in 1993. In 2011, the majority of the Compound F collection, including objects not subject to NAGPRA, was transferred to the National Park Service's Western Archeological and Conservation Center in Tucson, AZ. At the request of The Tribes, the human remains and associated funerary objects remained at LACMNH. No known individuals were identified. The 39 associated funerary objects are 25 sherds, 3 ceramic vessels, 6 faunal bone fragments, 1 bag of faunal bone fragments, 1 piece of turquoise, 1 pestle, 1 bag of charcoal, and 1 unworked cone shell fragment.

In the early 1930s, human remains representing, at minimum, one individual were removed from an unspecified site within the boundaries of Casa Grande Ruins National Monument in Pinal County, AZ. In 1934, the remains and associated funerary object were donated to the Phoebe A. Hearst Museum, where they are currently housed, by LACMNH through Arthur Woodward. No known individuals were identified. The one associated funerary object is a Casa Grande Red-on-buff ceramic funerary urn.

Several excavations sponsored by LACMNH and supervised by Arthur Woodward occurred within the boundaries of Casa Grande Ruins National Monument in the early 1930s, including the Compound F site and an unnamed site in the southeast corner of the monument. Based on the totality of information, Casa Grande Ruins National Monument has determined that the remains originated from one of these two sites.

Both the Compound F site and the unnamed site in the southeast corner of the monument have been determined to be Hohokam Classic Period (A.D.1150–1450) sites. Evidence demonstrating historical and cultural ties between the people of prehistoric Hohokam Classic Period sites and the modern Four Southern Tribes still living in the region (Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona) include linguistic continuity, oral tradition, settlement patterns, burial practices (cremation burials), historical records, and similarities in material culture (red-on-buff ceramics). Evidence demonstrating historical and cultural ties between the inhabitants of the prehistoric Hohokam Classic Period sites within Casa Grande Ruins National Monument and the contemporary peoples of the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico include geography, oral history, and archeological evidence.

Determinations Made by Casa Grande Ruins National Monument

Officials of Casa Grande Ruins National Monument have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 17 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 40 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Karl Cordova, Superintendent, Casa Grande Ruins National Monument, 1100 W Ruins Drive, Coolidge, AZ 85128, telephone (520) 723–3172, email *karl_cordova@nps.gov,* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

Casa Grande Ruins National Monument is responsible for notifying The Tribes that this notice has been published.

Dated: July 10, 2013.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–19990 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13660; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: St. Joseph County Sheriff's Department, Centreville, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The St. Joseph County Sheriff's Department has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the St. Joseph County Sheriff's Department. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the St. Joseph County Sheriff's Department at the address in this notice by September 16, 2013.

ADDRESSES: Undersheriff Mark Lillywhite, St. Joseph County Sheriff's Department, 650 East Main Street, Centreville, MI 49032, telephone (269) 467–9045.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory

of human remains under the control of the St. Joseph County Sheriff's Department. The human remains were removed from Section 27, Leonidas Township, St. Joseph County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Michigan State University Forensic Anthropology Department professional staff on behalf of the St. Joseph County Sheriff's Department with representatives of the Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.).

History and Description of the Remains

In December 1970, human remains representing, at minimum, one individual were removed from Section 27, Leonidas Township, in St. Joseph County, MI. The remains were transferred to the Michigan State University Forensic Anthropology Department where they were identified and transferred back to the St. Joseph County Sheriff's Department on June 26, 2013. The human remains were identified as a 30–40 year old Native American female from a pre-20th century population. No known individual was identified. No associated funerary objects are present.

Determinations Made by the St. Joseph County Sheriff's Department

Officials of the St. Joseph County Sheriff's Department have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on evaluation by the Michigan State University Forensic Anthropology Department.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Pursuant to 25 U.S.C. 3001(15), the land from which the Native American human remains were removed is the near the tribal land of the Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.).
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.).

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Undersheriff Mark Lilywhite, St. Joseph County Sheriff's Department, 650 East Main Street, Centreville, MI 49032, telephone (269) 467–9045, by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.) may proceed.

The St. Joseph County Sheriff's Department is responsible for notifying the Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.) that this notice has been published.

Dated: July 30, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20001 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13619; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Washington State Parks and Recreation Commission, Olympia, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Washington State Parks and Recreation Commission has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Washington State Parks and Recreation Commission. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Washington State Parks and Recreation Commission at the address in this notice by September 16, 2013.

ADDRESSES: Alicia Woods, Washington State Parks and Recreation Commission, PO Box 42650, Olympia, WA 98504–2650, telephone (360) 902–0939, email *Alicia.Woods@parks.wa.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Washington State Parks and Recreation Commission. The human remains and associated funerary objects were removed from Riverside State Park, in Spokane County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the Washington State Parks and Recreation Commission professional staff in consultation with representatives of the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho) and the Spokane Tribe of the Spokane Reservation. The Kalispel Indian Community of the Kalispel Reservation was invited to consult but did not participate.

History and Description of the Remains

From 1950 through 1953, human remains representing, at minimum, three individuals were removed from site 45–SP–5 in Spokane County, WA. The human remains were excavated by Louis R. Caywood of the National Park Service under a contract with the Washington State Parks and Recreation Commission. The human remains and associated funerary objects were identified in 2005, and were transferred from a storage facility in Seattle, WA, to the Washington State Parks and Recreation Commission headquarters in Olympia, WA, sometime after 2006. No known individuals were identified. The four associated funerary objects are mammal bone.

During 1962 and 1963, human remains representing, at minimum, four individuals were removed from site 45–SP–5 in Spokane County, WA. The human remains were excavated by John D. Combes of Washington State University under a contract with the Washington State Parks and Recreation Commission. The human remains and associated funerary objects were identified in 2006, and were transferred from a storage facility in Seattle, WA, to the Washington State Parks and Recreation Commission headquarters in Olympia, WA, sometime after 2006. No known individuals were identified. The 120 associated funerary objects are 50 stone flakes; 47 unmodified stones; 1 unmodified concretion; 5 unmodified olivella shell; 4 lots of charcoal; 2 lots of mammal bone; 2 lots of metal fragments; 4 lots of shell fragments; 4 lots of wood fragments; and 1 lot of plant material.

At an unknown date, human remains representing, at minimum, one individual were removed from site 45–SP–5 in Spokane County, WA. In 2008, the human remains were discovered in a storage building located adjacent to the site and were transferred to the Washington State Parks and Recreation Commission headquarters in Olympia, WA. No known individuals were identified. No associated funerary objects are present.

The site is a burial ground that dates from before 1812 to approximately 1885. Based on the material recovered from a small percentage of the overall number of burials, it would appear the burials are associated with the ''immediate pre-contact, fur trade, or post-fur trade periods'' (Luttrell, 2011). These dates are supported by first-person accounts of the types and styles of burials during and following the fur trade era (Cox, 1957; Luttrell, 2011; Williams, 1922). The human remains recovered from this site are incomplete and culturally non-diagnostic. Due to the nature of the site, the antiquity of the remains, the objects recovered with the remains, and the general nature and history of the overall site, the Washington State Parks and Recreation Commission staff has determined that, more likely than not, the eight individuals are of Native American ancestry.

The Washington State Parks and Recreation Commission staff has determined there is a relationship of shared group identity between the human remains and associated funerary objects and the modern day tribes of the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation. This determination is based on ethnographic evidence that the Upper and Middle Spokane people predominantly resided in the area and utilized the resources of this site in the pre- and post-contact period. Connections between the three groups included intermarriage between the Spokane and Kalispel people and the Spokane and Coeur d'Alene people as well as shared linguistic heritage, overlapping trade networks, battle alliances, shared resource protection, cooperative hunting parties, and shared burial practices (especially between the Spokane and Kalispel peoples) (Fahey, 1986; Luttrell, 2011; Ruby and Brown, 1970 & 1981; Walker, 1998). Additionally, during consultation with the Spokane Tribe, representatives stated the site is a part of their people's traditional territory, and the burial ground is a sacred place of their people.

Determinations Made by the Washington State Parks and Recreation Commission

Officials of the Washington State Parks and Recreation Commission have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 124 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request Alicia Woods, Washington State Parks and Recreation Commission, PO Box 42650, Olympia, WA 98504–2650, telephone (360) 902–0939, email *Alicia.Woods@parks.wa.gov* by by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation may proceed.

The Washington State Parks and Recreation Commission is responsible for notifying the Coeur d'Alene Tribe (previously listed as the Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho); Kalispel Indian Community of the Kalispel Reservation; and the Spokane Tribe of the Spokane Reservation that this notice has been published.

Dated: July 24, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20041 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13668; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Wupatki National Monument, Flagstaff, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Wupatki National Monument has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the

human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Wupatki National Monument. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Wupatki National Monument at the address in this notice by September 16, 2013.

ADDRESSES: Lisa Leap, Acting Superintendent, Wupatki National Monument, 6400 N Hwy 89, Flagstaff, AZ 86004, telephone (928) 526–1157 ext. 222, email *lisa_leap@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, National Park Service, Wupatki National Monument, Flagstaff, AZ. The human remains and associated funerary objects were removed from within the boundaries of Wupatki National Monument in Coconino County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Wupatki National Monument.

Consultation

A detailed assessment of the human remains was made by Wupatki National Monument professional staff in consultation with representatives of the Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort McDowell Yavapai Nation, Arizona; Fort Mojave Indian Tribe of Arizona, California & Nevada; Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo); Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Indian Tribe (previously listed as the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona); Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico. The Pueblo of San Felipe, New Mexico was contacted, but did not have an internal process to address the issue of repatriation. Hereafter, all tribes listed above are referred to as ''The Tribes.''

History and Description of the Remains

In 1934, human remains representing, at minimum, one individual were removed from Nalakihu Pueblo, in Coconino County, AZ, during a Civil Works Administration excavation conducted by the Museum of Northern Arizona. The human remains and associated funerary objects are in the physical custody of the Museum of Northern Arizona in Flagstaff, AZ. No known individuals were identified. The 19 associated funerary objects are 9 animal bones, 1 piece of charred cotton cloth, 1 axe, 1 pitcher fragment, 1 Walnut black-on-white mug, 1 Tsegi red-on-orange ladle, 1 Sunset red bowl, 1 Turkey Hill red jar, 2 obsidian projectile points, and 1 piece of charcoal.

On the basis of architecture and ceramics, Nalakihu Pueblo is dated to A.D. 1150–1300. The human remains, a cremation, have been analyzed by physical anthropologists who have determined them to be Native American. The burial was excavated immediately east of and contemporaneous with the site. Incineration occurred on a pyre or platform over a shallow, rectangular basin with a circular pit in the center. Four poles, slanted inward, intersected at about 4 feet above the central pit. The entire pit showed evidence of burning, indicating that the cremation occurred at that location. The cremation method is highly unusual for the Flagstaff and Wupatki areas but is reminiscent of mortuary practices of the lower Colorado River tribes such as the historic Quechan, Halchidohoma, Maricopa, Mojave, and/or Cocopah. The associated funerary objects are similar to Hopi and Zuni objects.

Determinations Made by Wupatki National Monument

Officials of Wupatki National Monument have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 19 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mojave Indian Tribe of Arizona, California & Nevada; Hopi Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Lisa Leap, Acting Superintendent, Wupatki National Monument, 6400 N Hwy 89, Flagstaff,

AZ 86004, telephone (928) 526–1157 ext. 222, email *lisa_leap@nps.gov,* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mojave Indian Tribe of Arizona, California & Nevada; Hopi Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

Wupatki National Monument is responsible for notifying The Tribes that this notice has been published.

Dated: July 30, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20005 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13657; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Rochester Museum & Science Center, Rochester, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Rochester Museum & Science Center has completed an inventory of associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request to the Rochester Museum & Science Center. If no additional requestors come forward, transfer of control of the associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to the Rochester Museum & Science Center at the address in this notice by September 16, 2013.

ADDRESSES: George McIntosh, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 271–4552 x 306, email *george_mcintosh@rmsc.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of associated funerary objects under the control of the Rochester Museum & Science Center, Rochester, NY. The associated funerary objects were removed from a small island off Prince of Wales Island, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the associated funerary objects was made by the Rochester Museum & Science Center professional staff in consultation with representatives of the Central Council of the Tlingit & Haida Indian Tribes and the Hydaburg Cooperative Association.

History and Description of the Objects

Sometime prior to 1924, five associated funerary objects were removed from an unnamed small island off Prince of Wales Island, AK, according to Rochester Museum & Science Center catalogue records. The associated funerary objects that at one time housed human remains were collected by Esther Gibson, who worked as a missionary nurse in Alaska for 33 years. On May 29, 1924, the Rochester Museum & Science Center (then Rochester Museum of Arts and Sciences) purchased the associated funerary objects from Gibson, who lived in Rochester, NY, at the time. No known individuals were identified. The five associated funerary objects are 1 wooden cremation box (24.57.3/AE 471), 1 sea lion hide (24.57.4/AE 472), 1 plaited cremation basket (24.57.5/AE 473), 1 rope (24.57.6/AE 474), and 1 plaited mat (24.57.7/AE 475).

The Rochester Museum & Science Center's collections records indicate that the associated funerary objects were found under a cliff on a small island off Prince of Wales Island, AK. The records state that the cremation box contained the ashes of a Tlingit shaman or chief wrapped in the sea lion hide, but the human remains are not present. The mat was wrapped around the outside of the box to protect it and secured with the rope. The documentation also states that the cremation basket, found beside the cremation box, contained the ashes of a slave, that are not present. A medallion adorning the top of the cremation box appears to commemorate George III of England, circa A.D. 1760–1800. Through consultation, it has been established that it was not uncommon for the Tlingit to acquire foreign objects through trade and use them to decorate cultural objects. Tlingit consultants also identified the paintings on the box as an old style Tlingit design probably dating to the late 1700s. This documentary, physical, and cultural evidence strongly suggests that the associated funerary objects are culturally affiliated with the Tlingit. This affiliation is also supported by historical evidence, which shows that the Prince of Wales Island was traditionally a Tlingit territory. It was not until the late 18th century that the Tlingit began to leave the area and the Kaigani Haida inhabited their abandoned villages.

Determinations Made by the Rochester Museum & Science Center

Officials of the Rochester Museum & Science Center have determined that:

- Pursuant to 25 U.S.C. 3001(3)(A), the five objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American associated funerary objects and the Central Council of the Tlingit & Haida Indian Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to George McIntosh, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 271–4552 x 306, email *george_mcintosh@rmsc.org,* by September 16, 2013. After that date, if no additional

requestors have come forward, transfer of control of the associated funerary objects to the Central Council of the Tlingit & Haida Indian Tribes may proceed.

The Rochester Museum & Science Center is responsible for notifying the Central Council of the Tlingit & Haida Indian Tribes and the Hydaburg Cooperative Association that this notice has been published.

Dated: July 29, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20035 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13636:PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Colorado State University, Fort Collins, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Colorado State University has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to Colorado State University, Department of Anthropology. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Colorado State University, Department of Anthropology at the address in this notice by September 16, 2013.

ADDRESSES: Christopher Green, Colorado State University, B–218 Clark Building, c/o Christopher Green, 1787 Campus Delivery, Fort Collins, CO 80525, telephone (970) 213–3060, email *cg99@rams.colostate.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of Colorado State University, Department of Anthropology, Fort Collins, CO. The human remains were removed near Lupton, in Apache County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Department of Anthropology at Colorado State University in consultation with representatives of the Arapaho Tribe of Wind River Reservation, Wyoming; Cheyenne & Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma); Navajo Nation, Arizona, New Mexico & Utah; Pueblo of San Ildefonso, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

History and Description of the Remains

Sometime before 1991, human remains representing, at minimum, one individual were removed from an unknown site near Lupton in Apache County, AZ. Collection and archival research by Dr. Jason LaBelle and Dr. Ann Magennis between 2005 and 2010, failed to find any documentation regarding this individual. This case represents miscellaneous teeth fragments from one individual. No invasive investigation has been done to make any other determinations. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Colorado State University, Department of Anthropology

Officials of the Colorado State University, Department of Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the condition, the assemblage, and the age of the remains.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Navajo Nation, Arizona, New Mexico & Utah.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Navajo Nation, Arizona, New Mexico & Utah.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Navajo Nation, Arizona, New Mexico & Utah.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Christopher Green, Colorado State University, B–218 Clark Building, c/o Christopher Green, 1787 Campus Delivery, Fort Collins, CO 80525, telephone (970) 213–3060, email *cg99@rams.colostate.edu,* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Navajo Nation, Arizona, New Mexico & Utah may proceed.

Colorado State University is responsible for notifying the Arapaho Tribe of Wind River Reservation, Wyoming; Cheyenne & Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma); Navajo Nation, Arizona, New Mexico & Utah; Pueblo of San Ildefonso, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah that this notice has been published.

Dated: July 25, 2013.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–19989 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13618: PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Anthropological Studies Center, Sonoma State University, has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on June 21, 2007. This notice corrects the minimum number of individuals and the number of associated funerary objects from site CA–MRN–27. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Anthropological Studies Center, Sonoma State University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Anthropological Studies Center, Sonoma State University, at the address in this notice by September 16, 2013.

ADDRESSES: Sandra Massey, NAGPRA Coordinator, Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, 1801 East Cotati Ave., Building 29, Rohnert Park, CA 94928, telephone (707) 664–2381, email *massey@sonoma.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Anthropological Studies Center, Sonoma State University, Rohnert Park, CA. The human remains and associated funerary objects were removed from site CA–MRN–27, Marin County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (72 FR 34275–34276, June 21, 2007). Re-inventory of the collection discovered fewer individuals and more associated funerary objects from site CA–MRN–27. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (72 FR 34275–34276, June 21, 2007), paragraph seven, sentence one is corrected by substituting the following sentences:

In 1967, human remains representing a minimum of 104 individuals were removed from the Reedland Woods site (CA–MRN–27), Tiburon, Marin County, CA, during an excavation under the direction of Dr. Frederickson (accession number 67–01). Additional human remains and associated funerary objects from this site were reburied in 1992 at Ya-Ka-Ama Indian Educational Center in Forestville, CA.

In the **Federal Register** (Vol 72 FR 34275–34276, June 21, 2007), paragraph seven, sentence six is corrected by substituting the following sentences:

The 6,640 associated funerary objects are 33 bone tools; 2 bone beads; 8 bone pendants; 1 bone pendant or net gauge; 32 bone tubes; 1 bone tube/whistle; 8 bone whistles; 19 pieces modified bone of indefinite use; 4 antler tools; 7 charmstones; 2 quartz crystals; 6 pieces miscellaneous groundstone; 7 pestles; 1 mortar; 53 obsidian tools; 12 worked/utilized obsidian flakes; 12 pieces otherwise worked obsidian; 5 chert tools; 3 chert utilized/worked flakes; 5 pieces otherwise worked chert; 7 pieces worked miscellaneous lithics; 3 pieces micaceous schist; 1 steatite ring; 1 steatite cone; 2 steatite pendants; 5 steatite beads; 4 pieces unworked steatite; 13 Haliotis (abalone) shell ornaments; 27 Haliotis beads; 2 Haliotis pendants; 669 Olivella shell beads; 113 miscellaneous shell beads; 4 pieces perforated Macoma (saltwater clam) shell; 7 pieces ochre; 193 pieces miscellaneous lithic debitage; 154 pieces baked clay; 35 clay shell casts; 1 charcoal sample; 4,328 pieces unmodified faunal bone; 422 pieces unmodified shell; 426 pieces miscellaneous unmodified lithic materials; and 2 soil samples.

In the **Federal Register** (Vol 72 FR 34275–34276, June 21, 2007), paragraph 19, sentences one and two are corrected by substituting the following sentences:

Officials of the Archaeological Collections Facility, Sonoma State University determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 156 individuals of Native American ancestry. Officials of the Archaeological Collections Facility, Sonoma State University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 6,640 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Sandra Massey, NAGPRA Coordinator, Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, 1801 East Cotati Ave., Building 29, Rohnert Park, CA, 94928, telephone (707) 664–2381, email *massey@sonoma.edu,* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to Federated Indians of Graton Rancheria, California, may proceed.

The Anthropological Studies Center, Sonoma State University, is responsible for notifying the Federated Indians of Graton Rancheria, California, that this notice has been published.

Dated: July 24, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20034 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13623; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, San Juan Island National Historical Park, Friday Harbor, WA, and Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA; Correction; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of the Interior, National Park Service, San Juan Island National Historical Park has corrected an inventory of human remains and associated funerary objects, published in a corrected Notice of Inventory Completion in the **Federal Register** on March 12, 2009. This notice corrects the minimum number of individuals and number of associated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to San Juan Island National Historical Park. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to San Juan Island National Historical Park at the address in this notice by September 16, 2013.

ADDRESSES: Lee Taylor, Superintendent, San Juan Island National Historical Park, P.O. Box 429, Friday Harbor, WA 98250, telephone (360) 378–2240, email *lee_taylor@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, National Park Service, San Juan Island National Historical Park, Friday Harbor, WA, and in the physical custody of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains and associated funerary objects were removed from three prehistoric archeological sites within the boundaries of San Juan Island National Historical Park, San Juan County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, San Juan Island National Historical Park.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a corrected Notice of Inventory Completion in the **Federal Register** (74 FR 10766–10767, March 12, 2009). During a review of faunal material in Burke Museum collections, additional human remains representing 42 individuals and 9 associated funerary objects were found. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (74 FR 10766–10767, March 12, 2009), paragraph five, sentence one is corrected by substituting the following sentence:

In 1946 and 1947, human remains representing a minimum of eight individuals were removed from the Cattle Point Site (45–SJ–01) on San Juan Island in San Juan County, WA, during legally authorized excavations by University of Washington archeologist Arden King.

In the **Federal Register** (74 FR 10766–10767, March 12, 2009), paragraph nine is corrected by substituting the following paragraph:

In 1970, 1971, and 1972, human remains representing a minimum of 36 individuals were removed from the English Camp Site in San Juan County, WA, during University of Idaho field schools directed by Dr. Roderick Sprague. The human remains and associated funerary objects were transferred to the Burke Museum and accessioned by the National Park Service. No known individuals were identified. The 60 associated funerary objects are 1 splinter awl made from deer bone, 1 tip of an antler tine, 1 square nail fragment, 1 wood fragment, 1 Horse Clam shell fragment, 6 basalt flakes, 47 non-human skeletal fragments and non-human teeth, and 2 bags of non-human bone.

In the **Federal Register** (74 FR 10766–10767, March 12, 2009), paragraph 10 is corrected by substituting the following paragraph:

Between 1984 and 1990, human remains representing a minimum of 14 individuals were removed from the English Camp Site in San Juan County, WA, during legally authorized excavations by Professor Julie Stein of the University of Washington. The human remains and associated funerary objects were transferred to the Burke Museum and accessioned by the National Park Service. No known individuals were identified. The 34 associated funerary objects are 28 non-human bone fragments, 1 miniature bone club, and 5 bags of non-human bone.

In the **Federal Register** (74 FR 10766–10767, March 12, 2009), paragraph 11, sentence 1 is corrected by substituting the following sentence:

In 1951, human remains representing a minimum of eight individuals were removed from the North Garrison Bay Site (45–SJ–25) in San Juan County, WA, during a summer field school in archeology under the direction of Professor Carroll Burroughs of the University of Washington.

In the **Federal Register** (74 FR 10766–10767, March 12, 2009), paragraph 12, sentence 1 is corrected by substituting the following sentence:

Based upon non-destructive osteological analysis, archeological data, geographic context and accession data, the 76 individuals from the four San Juan Island sites are of Native American ancestry.

In the **Federal Register** (74 FR 10766–10767, March 12, 2009), paragraph 14, sentences 1 and 2 are corrected by substituting the following sentences:

Officials of San Juan Island National Historical Park have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 76 individuals of Native American ancestry. Officials of San Juan Island National Historical Park also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 143 associated funerary objects are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Lee Taylor, Superintendent, San Juan Island National Historical Park, P.O. Box 429, Friday Harbor, WA 98250, telephone (360) 378–2240, email *lee_taylor@nps.gov,* by September 16, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Lummi Tribe of the Lummi Reservation may proceed.

San Juan Island National Historical Park is responsible for notifying the Lummi Tribe of the Lummi Reservation; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); and Swinomish Indians of the Swinomish Reservation of Washington that this notice has been published.

Dated: July 24, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20045 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–ANIA–WRST–DTS–13416; PPAKAKROR4;PPMPRLE1Y.LS0000]

Aniakchak National Monument Subsistence Resource Commission and the Wrangell-St. Elias National Park Subsistence Resource Commission; Meetings

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: As required by the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), the National Park Service (NPS) is hereby giving notice that the Aniakchak National Monument Subsistence Resource Commission (SRC) and the Wrangell-St. Elias National Park SRC will hold meetings to develop and continue work on NPS subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487.

Aniakchak National Monument SRC Meeting Date and Location: The Aniakchak National Monument SRC will meet from 1:30 p.m. to 5:00 p.m. or until business is completed on Tuesday, September 10, 2013, at the Chignik Lake Subsistence Hall in Chignik Lake, AK. If additional time is needed, the SRC will meet on Wednesday, September 11, 2013, from 10:00 a.m. to 1:30 p.m. or until business is completed. For more detailed information regarding this meeting, contact Designated Federal Official Diane Chung, Superintendent, at (907) 246–3305; Mary McBurney at (907) 235–7891; or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Aniakchak National Monument SRC membership, contact the Superintendent at P.O. Box 7, King Salmon, AK 99613, or visit the park Web site at: *http://www.nps.gov.ania/contacts.htm.*

Wrangell-St. Elias National Park SRC Meeting Date and Location: The Wrangell-St. Elias National Park SRC will meet from 9:30 a.m. to 5:00 p.m. or until business is completed on Tuesday, October 29, 2013, and Wednesday, October 30, 2013, at the Chistochina Community Hall, Chistochina, AK. For more detailed information regarding this meeting, contact Designated Federal Official Rick Obernesser, Superintendent, or Barbara Cellarius, Subsistence Manager, at (907) 822–5234, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Wrangell-St. Elias National Park SRC membership, contact the Superintendent at P.O. Box 439, Copper Center, AK 99753, or visit the park Web site at: *http://www.nps.gov.wrst/contacts.htm.*

National Park SRC Proposed Meeting Agenda:

The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome Introduction
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Welcome by Local Community
6. Superintendent's Welcome and Review of the Commission Purpose
7. Commission Membership Status
8. SRC Chair and Members' Reports
9. Superintendent's Report
10. Old Business
11. New Business
12. Federal Subsistence Board Update
13. Alaska Boards of Fish and Game Update
14. National Park Service Reports
    a. Ranger Update
    b. Resource Management Update
    c. Subsistence Manager's Report
15. Public and Other Agency Comments
16. Work Session
17. Set Tentative Date and Location for Next SRC Meeting
18. Adjourn Meeting

SRC meeting locations and dates may change based on inclement weather or exceptional circumstances. If the meeting date and location are changed, the Superintendent will issue a press release and use local newspapers and radio stations to announce the meeting.

SUPPLEMENTARY INFORMATION: These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The meetings will be recorded and meeting minutes will be available upon request from the Park Superintendent for public inspection approximately six weeks after the meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 12, 2013.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2013–19917 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–EF–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–13659; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 27, 2013. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 3, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 30, 2013.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

GEORGIA

Gwinnett County

Lawrenceville Downtown Commercial Historic District, Bounded by Culver, Oak, Jackson & Lucky Sts., Lawrenceville, 13000687

IOWA

Black Hawk County

John Deere Tractor Company C–2 Manufacturing Plant, 360 Westfield Ave., Waterloo, 13000689

Dubuque County

Dunleith and Dubuque Bridge, (Highway Bridges of Iowa MPS) 7600 Chavenelle Dr., Dubuque, 13000690

Johnson County

Wehner, Roland and Marilyn, House, 3112 IA 1, Iowa City, 13000691

Linn County

B Avenue NE. Historic District, B Ave., NE. from 15th to 21st Sts., Cedar Rapids, 13000692

LOUISIANA

Madison Parish

Tallulah High School, 603 Bayou Dr., Tallulah, 13000693

Orleans Parish

Building at 225 Baronne Street, 225 Baronne St., New Orleans, 13000694
U.S. Naval Station Algiers Historic District, Roughly bounded by Mississippi R. levee, Heerman, Constitution & Carmick Sts., New Orleans, 13000695

NEW YORK

Queens County

First Presbyterian Church of Newtown, 54–05 Seabury St., Elmhurst, 13000696

St. Lawrence County

Watkins-Sisson House, 14 Leroy St., Potsdam, 13000697

NORTH CAROLINA

Brunswick County

Orton Plantation (Boundary Increase), 9149 Orton Rd., Winnabow, 13000698

Montgomery County

Star Historic District, Roughly bounded by College, 1st & Dameron Sts., Star, 13000699

Moore County

Moore County Hunt Lands and Mile-Away Farms, 1745 N. May St., Southern Pines, 13000700

OHIO

Tuscarawas County

Zoar Historic District (Boundary Increase), Roughly bounded by Zoar Cemetery, Cemetery Rd., Lake Dr., Tuscarawas R., NC 212, 5th, E. 2nd & East Sts., Zoar, 13000701

OKLAHOMA

Adair County

Ballard Creek Roadbed, (Cherokee Trail of Tears MPS) Address Restricted, Westville, 13000702

Carter County

Turner House, 1501 3rd Ave. SW., Ardmore, 13000703

Craig County

Walker Farmhouse, (Cherokee Trail of Tears MPS) Address Restricted, Welch, 13000705

Oklahoma County

Wesley Hospital, 300 NW 12th St., Oklahoma City, 13000706

OREGON

Marion County

Odd Fellows Rural Cemetery, 2201 Commercial St. SE., Salem, 13000707

VIRGINIA

Hampton Independent city

Fort Monroe (Stone Fort), Address Restricted, Fort Monroe, 13000709
Fort Monroe Historic District (Boundary Increase), Address Restricted, Fort Monroe, 13000708

Orange County

Mount Sharon, 19184 Mount Sharon Ln., Orange, 13000710

WISCONSIN

Clark County

Neillsville Standpipe, 325 E. 4th St., Neillsville, 13000711

[FR Doc. 2013–19890 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13681; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of Colorado Museum of Natural History, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Colorado Museum of Natural History, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects and objects of cultural patrimony. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the University of Colorado Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the University of Colorado Museum of Natural History at the address in this notice by September 16, 2013.

ADDRESSES: Jen Shannon, Curator of Cultural Anthropology, University of Colorado Museum of Natural History, 218 UCB, Boulder, CO 80309–0218, telephone (303) 492–6276, email *jshannon@colorado.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the University of Colorado Museum of Natural History, Boulder, CO that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

In September 1970, Joe Ben Wheat, Curator of Anthropology, purchased for the University of Colorado Museum of Natural History one cultural item. Dr. Wheat acquired this item from an unknown individual. The sacred object and object of cultural patrimony is a Monsterway Protectionway medicine bundle (jish) (catalog # 22437a–y). The dimensions are 10.7cm × 0.9cm.

In the spring of 1977, Muriel Sibell Wolle, former University of Colorado art and art history professor, bequeathed to the University of Colorado Museum of Natural History two cultural items. Professor Wolle acquired these items on an unknown date from an unknown individual. The two sacred objects and objects of cultural patrimony are Keet'aan Yalti'i (Twin Fetish Gods) (catalog # 26691) and Ha'da'honiye' (Mirage Stone) (catalog # 26692). The Twin Fetish Gods are comprised of one light colored stone and one mostly dark banded stone. Both stones have four inlays, three of which are turquoise and a fourth abalone. These inlays are located at the wider end of the stones and are arranged in a quadrate pattern. Multicolored yarn (red, green, purple, orange, and white) encircles almost three quarters of the two stones. Three tabular abalone shells measuring 2.5cm × 5cm are attached by twine to the yarn. A number of peacock, bluebird, and other unidentified feathers are inserted between the stones and the yarn. The Mirage Stone is a solid cylinder of grayish-white mirage/aragonite stone. Both ends of the cylinder are bordered with an inlay of green turquoise chips.

In 1979, H. Jackson Clark, Sr., owner of the Toh-Atin Gallery, Durango, CO, donated one cultural item to the University of Colorado Museum of

Natural History. Mr. Clark acquired this item on an unknown date from an unknown individual. The sacred object and object of cultural patrimony is a Hóchxó íjí Jish (Evilway Medicine Bundle) (catalog # 1979.5.1–24), which consists of 10 small pouches contained in a bag with a hole that allows the jish to be placed over a saddle horn for transport.

On December 9, 1983, Harris ''Tommy'' and Lee Thompson donated one cultural item to the University of Colorado Museum of Natural History. The donors acquired this item at an unknown date from an unknown individual. The sacred object and object of cultural patrimony is a Keet'aan Yalti'i (Twin Fetish Gods) with pouch (catalog # 1983.47.1 A–B (34509 A–B)). The twin fetish is comprised of two stones, one white and one striated gray with feather headdresses and facial features of small inlaid turquoise. Identical animal forms are bound to the front and back of each with multicolored yarn wrappings. Also tied to them with yarn is a small buckskin infant-like figure. Below the yarn wrapping is a beaded buckskin kilt with buckskin ties and fringe of colored yarn. Their overall dimensions are 15.5cm x 4.5cm.

In September of 1984, H. Jackson Clark, Sr., owner of the Toh-Atin Gallery, Durango, CO, donated one cultural item to the University of Colorado Museum of Natural History. Mr. Clark acquired this item on an unknown date from an unknown individual on the Navajo Reservation. The sacred object and object of cultural patrimony is a Hóchxó íjí Jish (Evilway Medicine Bundle) and Diné Bi Nilchi ji Jish (Navajo Windway Medicine Bundle) (catalog # 1984.9.2).

During consultation, representatives of the Navajo Nation provided evidence in support of cultural affiliation as well as the determination that the items are both sacred objects and objects of cultural patrimony. The anthropological literature, including the work of Leland C. Wyman, also supports cultural affiliation. During consultation, the Navajo representatives described and demonstrated the purpose and use of many of items. They also related how wide the use of the items is today and how Navajo people today are being trained in their use. They also explained that the items are alive and must be cared for in specific ways and treated with respect.

Determinations Made by the University of Colorado Museum of Natural History

Officials of the University of Colorado Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the six cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the six cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and objects of cultural patrimony and the Navajo Nation, Arizona, New Mexico & Utah.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Jen Shannon, Curator of Cultural Anthropology, University of Colorado Museum of Natural History, 218 UCB, Boulder, CO 80309–0218, telephone (303) 492–6276, email *jshannon@colorado.edu,* by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the sacred objects and objects of cultural patrimony to the Navajo Nation, Arizona, New Mexico & Utah may proceed.

The University of Colorado Museum of Natural History is responsible for notifying the Navajo Nation, Arizona, New Mexico & Utah that this notice has been published.

Dated: July 31, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–20007 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13658; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Item: Rochester Museum & Science Center, Rochester, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Rochester Museum & Science Center, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of a sacred object and an object of cultural patrimony. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Rochester Museum & Science Center. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Rochester Museum & Science Center at the address in this notice by September 16, 2013.

ADDRESSES: George McIntosh, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 271–4552 x 306, email *george_mcintosh@rmsc.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Rochester Museum & Science Center, Rochester, NY, that meets the definition of a sacred object and an object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

The one sacred object and object of cultural patrimony is a Chilkat blanket (27.92.1/AE 580). Rochester Museum & Science Center catalog records show that on January 1, 1927, the Rochester Museum & Science Center (then Rochester Museum of Arts and Sciences) purchased the Chilkat blanket from John G. Worth of New York City,

NY. The records indicate that the Chilkat blanket is from Alaska but contain no additional provenience information.

Based on consultation with the Central Council of the Tlingit & Haida Indian Tribes, the Rochester Museum & Science Center reasonably believes this cultural item is culturally affiliated with the Tlingit. Furthermore, the museum was also informed during consultation that the object is considered to be both a sacred object and an object of cultural patrimony.

Determinations Made by the Rochester Museum & Science Center

Officials of the Rochester Museum & Science Center have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object/object of cultural patrimony and the Central Council of the Tlingit & Haida Indian Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to George McIntosh, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 271–4552 x 306, email *george_mcintosh@rmsc.org,* by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the sacred object/object of cultural patrimony to the Central Council of the Tlingit & Haida Indian Tribes may proceed.

The Rochester Museum & Science Center is responsible for notifying the Central Council of the Tlingit & Haida Indian Tribes that this notice has been published.

Dated: July 29, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–19996 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13483; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum, University of Washington (Burke Museum), in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Burke Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Burke Museum at the address in this notice by September 16, 2013.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 35101, Seattle, WA 98195, telephone (206) 685–3849, email *plape@uw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Burke Museum, Seattle, WA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1919, two unassociated funerary objects were removed from the W.T. Good Farm, south of Mt. Vernon, in Skagit County, WA. Human remains and funerary objects were removed by A.R. Hilen and donated to the Burke Museum in 1919 (Burke Accn. #1613). The whereabouts of the human remains are unknown. The two unassociated funerary objects are copper bracelets.

The cemetery site from which the objects were removed was identified as an ''Indian cemetery.'' The Rygg and Lisk families occupied the property. The Lisk family was of Kikiallus heritage. The site described in this notice is located on the South Fork of the Skagit River. The two copper bracelets are consistent in style with Native American Coast Salish historic material culture.

Linguistically, Native American speakers of the Northern dialect of the Lushootseed language claim cultural heritage to the Skagit River delta area. Historical and anthropological sources (Amoss 1978, Mooney 1896, Spier 1936, Swanton 1952) indicate that the Kikiallus, Swinomish, Lower Skagit, and Upper Skagit people occupied and had village sites within the Skagit River delta area. Oral history provided by the Stillaguamish and legal testimony during the Indian Claims Commission decisions also indicates that the Stillaguamish utilized the Skagit River delta and Skagit Bay area for hunting, fishing, and clamming (Grady 2012:3). Today, descendants of Kikiallus are members of the Stillaguamish Tribe of Indians of Washington (previously listed as Stillaguamish Tribe of Washington); the Swinomish Indians of the Swinomish Reservation of Washington; and the Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington). Today, the Lower Skagit are represented by the Swinomish Indians of the Swinomish Reservation of Washington. The Upper Skagit are represented by the Upper Skagit Indian Tribe.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the two cultural items described above are reasonably believed to have been

placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Stillaguamish Tribe of Indians of Washington (previously listed as Stillaguamish Tribe of Washington); Swinomish Indians of the Swinomish Reservation of Washington; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); and the Upper Skagit Indian Tribe.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Peter Lape, Burke Museum, University of Washington, Box 35101, Seattle, WA 98195, telephone (206) 685–3849, email *plape@uw.edu,* by September 16, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Stillaguamish Tribe of Indians of Washington (previously listed as Stillaguamish Tribe of Washington); Swinomish Indians of the Swinomish Reservation of Washington; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); and the Upper Skagit Indian Tribe may proceed.

The Burke Museum is responsible for notifying the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Sauk-Suiattle Indian Tribe; Stillaguamish Tribe of Indians of Washington (previously listed as Stillaguamish Tribe of Washington); Swinomish Indians of the Swinomish Reservation of Washington; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); and the Upper Skagit Indian Tribe that this notice has been published.

Dated: July 10, 2013.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–19988 Filed 8–15–13; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. 701–TA–491–497 (Final)]

Frozen Warmwater Shrimp From China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam; Commission Determination To Deny a Request To Hold a Portion of a Hearing

In Camera

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission has determined to deny a request to conduct a portion of its hearing in the above captioned investigations scheduled for August 13, 2013 *in camera. See* Commission Rules 207.24(d), 201.13(m) and 201.36(b)(4) (19 CFR 207.24(d), 201.13(m) and 201.36(b)(4)).

FOR FURTHER INFORMATION CONTACT: Robin L. Turner, Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3103. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–3105.

SUPPLEMENTARY INFORMATION: The Commission believes that respondent Seafood Exporters Association of India has not justified the need for resorting to the extraordinary measure of an *in camera* hearing. The Commission reaffirms its belief that whenever possible its business should be conducted in public. Accordingly, the Commission has determined that the public interest would be best served by a hearing that is entirely open to the public.

Authority: This notice is provided pursuant to Commission Rule 201.35(b) (19 CFR 201.35(b)).

By order of the Commission.

Issued: August 12, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–19888 Filed 8–15–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–13–020]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 23, 2013 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–929–931 (Second Review) (Silicomanganese from India, Kazakhstan, and Venezuela). The Commission is currently scheduled to complete and file its determinations and views of the Commission on or before September 12, 2013.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: August 14, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–20108 Filed 8–14–13; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Riccelli Enterprises, Inc.,* Civil Action No. 5:13-cv-916 (GLS/DEP) was lodged with the United States District Court for the Northern District of New York on August 5, 2013.

This proposed Consent Decree concerns a complaint filed by the United States against Riccelli Enterprises, Inc. and Riccelli Enterprises, LLC pursuant to Clean Water Act sections 301 and 309, 33 U.S.C. 1311 and 1319, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore and monitor the impacted areas and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Charles E. Roberts, Assistant United States Attorney, 100 South Clinton Street, Syracuse, New York 13260–0039 and refer to *United States* v. *Riccelli*

Enterprises, Inc., U.S.A.O. # 2011V01026; CDCS # 2013A58769 and DJ # 90–5–1–1–19520.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of Syracuse, 100 South Clinton Street, Syracuse, NY 13261–7367. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2013–19883 Filed 8–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Port of Tacoma, et al.,* No. 11–cv–05253–RJB, was lodged with the United States District Court for the Western District of Washington on August 5, 2013.

This proposed Consent Decree concerns a complaint filed by the United States against the Port of Tacoma, Scarsella Brothers, Inc., Waka Group, Inc., and DEMCO, Inc., pursuant to 33 U.S.C. 1311, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The State of Washington was also named as a party to the case, as required by 33 U.S.C. 1319(e), and is a signatory to the proposed Consent Decree. The proposed Consent Decree resolves the allegations against the Port of Tacoma, Scarsella Brothers, Inc., and Waka Group, Inc., by requiring those Defendants to restore the impacted areas, perform mitigation, and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Austin D. Saylor, United States Department of Justice, Environment and Natural Resources Division, P.O. Box 7611, Washington, DC 20044, and refer to *United States* v. *Port of Tacoma, et al.,* DJ # 90–5–1–1–18939.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Western District of Washington, 700 Stewart Street, Suite 2310, Seattle, WA 98101. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2013–19889 Filed 8–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed Collection; Comment Request: Methodological Research to Support the National Crime Victimization Survey: Self-Report Data on Rape and Sexual Assault—Pilot Test

ACTION: Correction; 60-day notice.

This is a correction to a 60 day notice published August 9, 2013, FR 78, page 48720. The notice should have stated a comment period for 60 days from the publication date not 30 days. The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for October 15, 2013. This process is in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Shannan Catalano, Statistician (202) 616–3502, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of information collection:* New collection under activities related to the National Crime Victimization Survey Redesign Research (NCVS–RR) program: Methodological Research to Support the National Crime Victimization Survey: Self-Report Data on Rape and Sexual Assault—Pilot Test.

(2) *Title of the Form/Collection:* National Survey on Health and Safety (NSHS).

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* NSHS1, NSHS2, NSHS3, and NSHS4, Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Females ages 18 or older in 5 Core Based Statistical Areas (CBSAs) in the United States. These CBSAs include—

- New York-Northern New Jersey-Long Island, NY-NJ-PA;
- Los Angeles-Long Beach-Santa Ana, CA;
- Miami-Fort Lauderdale-Pompano Beach, FL;
- Dallas-Fort Worth-Arlington-TX; and
- Phoenix-Mesa-Glendale, AZ.

The NSHS will test alternative survey methods for measuring rape and sexual assault and develop improved collection procedures for these crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:*

- Approximately 50 victim service agencies, and 100 universities and colleges will be contacted to serve as liaisons between potential respondents about the survey. The average length of contact with these agencies is approximately 120 minutes per agency for a total of 300 burden hours.
- Approximately, 76,740 households will be contacted to screen for eligible

participants. The expected burden placed on these households is 4 minutes per household for a total of 5,116 burden hours.

• Approximately 19,320 females ages 18 or older will be interviewed for eligibility in the NSHS. The screening portion of the NSHS is designed to filter out those females who have not experienced rape or sexual assault. The expected burden placed on these 19,320 respondents is 18 minutes per respondent for a total of 5,796 burden hours.

• An estimated 1,352 respondent (7%) are expected to be identified as victims of rape or sexual assault. These respondents will be administered a detailed incident questionnaire. The expected burden placed on these respondents is 15 minutes for a total of 338 burden hours.

(6) An estimate of the total public burden (in hours) associated with the collection: The total respondent burden is approximately 11,550 hours.

If additional information is required, contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: August 13, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–19955 Filed 8–15–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

168th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 168th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held as a teleconference on September 23, 2013.

The meeting will take place in C5521 Room 4, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Public access is available only in this room (i.e. not by telephone). The meeting will run from 10:00 a.m. to approximately 4:00 p.m. The purpose of the open meeting is to discuss reports/recommendations for the Secretary of Labor on the issues of (1) Successful Retirement Plan Communications for Various Population Segments, (2) Locating Missing and Lost Participants, and (3) Private Sector Pension De-risking and Participant Protections. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site at *http://www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html*.

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before September 16, 2013 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments in text or pdf format transmitted to *good.larry@dol.gov*. It is requested that statements not be included in the body of an email. Statements deemed relevant by the Advisory Council and received on or before September 16 will be included in the record of the meeting and will be available by contacting the EBSA Public Disclosure Room, along with any witness statements. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by September 16, 2013 at the address indicated.

Signed at Washington, DC, this 12th day of August, 2013.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2013–19952 Filed 8–15–13; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Extension of Deadline for Nominations for Vacancies

The Department of Labor is extending until September 6, 2013, the deadline for nominations of individuals for appointment to the Advisory Council on Employee Welfare and Pension Benefit Plans.

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans (the Council), which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be a representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be a representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). No more than eight members of the Council shall be members of the same political party.

Council members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his or her functions under ERISA, and to submit to the Secretary, or his or her designee, recommendations with respect thereto. The Council will meet at least four times each year.

The terms of five members of the Council expire this year. The groups or fields they represent are as follows: (1) Employee organizations; (2) employers; (3) insurance; (4) accounting; and (5) the general public. The Department of Labor is committed to equal opportunity in the workplace and seeks a broad-based and diverse Council.

Accordingly, notice is hereby given that any person or organization desiring to nominate one or more individuals for

appointment to the Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph may submit nominations to Larry Good, Council Executive Secretary, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Suite N–5623, Washington, DC 20210, or to *good.larry@dol.gov*. Nominations (including supporting nominations) must be received on or before September 6, 2013. Nominations may be in the form of a letter, resolution or petition, signed by the person making the nomination or, in the case of a nomination by an organization, by an authorized representative of the organization.

Nominations, including supporting letters, should:

- State the person's qualifications to serve on the Council.
- State that the candidate will accept appointment to the Council if offered.
- Include which of the five positions the candidate is nominated to fill.
- Include the nominee's full name, work affiliation, mailing address, phone number, and email address.
- Include the nominator's full name, mailing address, phone number, and email address.
- Include the nominator's signature, whether sent by email or otherwise. Please do not include any information that you do not want publicly disclosed.

In selecting Council members, the Secretary of Labor will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals.

Nominees will be contacted to provide information on their political affiliation and their status as registered lobbyists. Nominees should be aware of the time commitment for attending meetings and actively participating in the work of the Council. Historically, this has meant a commitment of 15–20 days per year.

Signed at Washington, DC this 12th day of August, 2013.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2013–19951 Filed 8–15–13; 8:45 am]

BILLING CODE 4510–29–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2012–6 CRB CD 2004–2009 (Phase II)]

Distribution of 2004, 2005, 2006, 2007, 2008, and 2009 Cable Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Initiation of Phase II proceeding and request for Petitions to Participate.

SUMMARY: The Copyright Royalty Judges (Judges) announce the commencement of a proceeding to determine the Phase II distribution of royalties deposited with the Register of Copyrights for the statutory license allowing distant retransmission of over-the-air television and radio broadcast signals by cable system operators. The funds to be distributed are those relating to broadcast years 2004, 2005, 2006, 2007, 2006, and 2009. The Judges also announce the date by which any party wishing to participate in this distribution proceeding must file its Petition to Participate and the accompanying $150 filing fee, if applicable.

DATES: Petitions to Participate and the filing fee are due on or before September 16, 2013.

ADDRESSES: Participants must submit an original, five paper copies, and an electronic copy in Portable Document Format (PDF) on a CD of the Petition to Participate, along with the $150 filing fee, to the Copyright Royalty Board by either mail or hand delivery. Participants MAY NOT submit Petitions to Participate and the $150 filing fee by an overnight delivery service other than the U.S. Postal Service Express Mail. If participants choose to use U.S. Postal Service (including overnight delivery), they must address their submissions to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If participants choose hand delivery by a private party, they must deliver the submissions to the Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If participants choose delivery by a commercial courier, they must deliver the submissions to the Congressional Courier Acceptance Site, located at 2nd and D Street NE., Washington, DC. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, CRB Program Specialist, by telephone at (202) 707–7658, or email at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION:

Background

Twice each calendar year, cable system operators must deposit royalty payments with the Copyright Office for the statutory license granting the privilege of retransmitting over-the-air television and radio broadcast signals. 17 U.S.C. 111. The royalties are then distributed to copyright owners whose works were retransmitted and who timely filed a claim for royalties.

The royalties at issue in this proceeding are being distributed in two phases. For broadcast years 2004 and 2005, the Judges conducted Phase I hearings, after which they determined the percentage allocation of the royalties among representatives of the major categories of copyrightable content (movies, sports programming, music, etc.). For broadcast years 2006 through 2009, the parties settled their controversies. The Judges authorized a final Phase I distribution for all six years at issue currently by order dated February 17, 2012 [1]. The Phase I distribution order for broadcast years 2004 through 2009 provided for retention of $20 million in cable royalty funds, divided equally among each of the six years, and $13 million in satellite royalty funds,[2] divided equally among each of the six years, pending resolution of remaining controversies regarding proper distribution and allocation of those funds. The purpose of this Phase II proceeding is to allocate the royalties among the various copyright owners within each category.

Commencement of Phase II Proceeding

The Judges determine that a Phase II controversy exists as to the distribution of the retained cable royalty funds deposited for broadcast years 2004 through 2009, inclusive. On July 27, 2012, three Phase I participants, Joint Sports Claimants, Program Suppliers, and Devotional Claimants filed a Joint Motion to Initiate Phase II Proceedings (Joint Motion), representing that all other Phase I category royalty recipients had resolved their remaining controversies and seeking to consolidate the proceeding for years 2004–05 with

[1] *See* Order on Motions for Distribution in Docket Numbers 2007–3 CRB CD 2004–05; 2008–4 CRB CD 2006; 2009–6 CRB CD 2007; 2010–6 CRB CD 2008; 2011–7 CRB CD 2009; 2010–2 CRB SD 2004–07; 2010–7 CRB SD 2008; 2011–8 CRB SD 2009.

[2] This notice relates only to cable royalties; satellite royalties shall be the subject of a separate notice.

proceedings for years 2006 through 2009.

Independent Producers Group (IPG) objected to the motion, citing unresolved distribution of royalties deposited for royalty years antedating 2004 and asserting that the earlier distributions should be completed before initiating a proceeding for the funds at issue in this proceeding. In the interim, between the Joint Motion and this notice, the Judges have resolved or scheduled for resolution all issues remaining in the earlier proceedings. IPG's objection to initiating this Phase II proceeding is not persuasive as it is no longer germane.

In light of the outstanding Phase II controversies with respect to cable royalties for 2004 to 2009, inclusive, the Judges hereby *grant* the Joint Motion, initiating a Phase II proceeding and consolidating all extant proceedings relating to cable royalties for the years 2004 through 2009, inclusive, for resolution under the docket number noted above.

Petitions To Participate

Any interested party must file a Petition to Participate (PTP) in accordance with 37 CFR 351.1(b)(2). PTPs submitted by interested parties whose claims do not exceed $1,000 must contain a statement that the party will not seek a distribution of more than $1,000. The Judges will accept PTPs for claims not exceeding $1,000 without a filing fee. The Judges will reject the PTP of any party asserting a claim in excess of $1,000 that is not accompanied by the filing fee of $150. The filing fee must be paid by check or money order payable to the ''Copyright Royalty Board.'' If a check is returned for insufficient funds, the corresponding Petition to Participate will be dismissed.

To participate in this Phase II proceeding, a party, other than an individual, must be represented by an attorney.

The Judges will address scheduling and further procedural matters after Petitions to Participate are filed.

Dated: August 12, 2013.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2013–19891 Filed 8–15–13; 8:45 am]

BILLING CODE 1410–72–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Dockets No. 2012–7 CRB SD 2000–2009; 2008–5 CRB SD 1999–2000]

Distribution of 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009 Satellite Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice announcing commencement of Phase II distribution proceeding and request for Petitions to Participate.

SUMMARY: The Copyright Royalty Judges (Judges) announce the commencement of a proceeding to determine the Phase II distribution of royalties deposited by satellite carriers for a statutory license to retransmit over-the-air television broadcast stations. A party wishing to participate in this distribution proceeding must file its Petition to Participate and the accompanying $150 filing fee, if applicable, by the deadline announced in this notice.

DATES: Petitions to Participate are due on or before September 16, 2013.

ADDRESSES: Participants must submit a Petition to Participate in a hard-copy original, with five paper copies and an electronic copy in Portable Document Format (PDF) on a Compact Disc, along with the $150 filing fee, to the Copyright Royalty Board by either mail or hand delivery. Participants MAY NOT submit Petitions to Participate and the $150 filing fee by an overnight delivery service other than the U.S. Postal Service Express Mail. If participants choose to use U.S. Postal Service (including overnight delivery), they must address their submissions to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If participants choose hand delivery by a private party, they must deliver the submissions to the Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000. If participants choose delivery by a commercial courier, they must deliver the submissions to the Congressional Courier Acceptance Site, located at 2nd and D Street, NE., Washington, DC. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, CRB Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Twice each calendar year, satellite carriers must deposit royalty payments with the Copyright Office for the statutory license granting the privilege of retransmitting over-the-air television broadcast stations. *See* 17 U.S.C. 119(b)(1)(B). These royalties are then distributed to copyright owners whose works were retransmitted and who timely filed a claim for royalties.

The royalties for each calendar year at issue are distributed in two phases. At Phase I, the royalties are divided among representatives of categories of copyrightable content (*e.g.,* movies, music, and sports programming). At Phase II, the royalties are divided among the various copyright owners within each category. If all participants agree to a proposed distribution of royalties deposited in any given royalty year, the Judges may approve the settlement and authorize disbursement. If, however, the participants identify a controversy as to the proper distribution, either at Phase I or Phase II, the Judges are required to conduct a proceeding under chapter 8 of the Copyright Act. *See* 17 U.S.C. 119(b)(4)(B).

For each of the royalty years at issue in this proceeding, the Judges have published in the **Federal Register** a notice requesting comments as to the existence of controversies regarding distribution of the funds.[1] In each instance, the Judges received and considered comments and ordered partial distribution of satellite royalties. Participants with a contested claim to each prior year's distribution now seek initiation of a consolidated Phase II proceeding to resolve all remaining controversies regarding the royalty funds that the Copyright Office retains.

On August 29, 2012, representatives of certain Phase I categories of claimants filed a Joint Motion to Initiate Phase II Proceedings for the Distribution of the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009 Satellite Royalty Funds (Joint Motion). The parties making the request are: Joint Sports Claimants (JSC), Program Suppliers, Devotional Claimants,

[1] *See* Notice Requesting Comments, 70 FR 46193 (Aug. 9, 2005), Docket 2005–2 CRB SD 2001–2003; Notice Requesting Comments, 73 FR 5597 (Jan. 30, 2008), Docket 2008–5 CRB SD 1999–2000; Notice Requesting Comments, 75 FR 4423 (Jan. 27, 2010) Docket 2010–2 CRB SD 2004–2007; Notice Requesting Comments, 75 FR 66799 (Oct. 29, 2010), Docket 2010–7 CRB SD 2008); Notice Requesting Comments, 76 FR 55123 (Sept. 6, 2011), Docket 2011–8 CRB SD 2009.

Broadcasters Claimants Group (BCG), and the ''Music Claimants'' consisting of Broadcast Music, Inc. (BMI), American Society of Composers, Authors & Publishers (ASCAP), and SESAC, Inc. (collectively, Phase I Parties). Independent Producers Group (IPG) opposed the Joint Motion on the grounds that: (i) a proceeding for 2000–2009 funds should not be commenced before resolution of all controversies relating to 1997 to 1999 Satellite funds, and (ii) combining ten years' issues would present an overwhelmingly difficult task for counsel and the Judges. The Phase I Parties replied that IPG had not presented a compelling reason to either delay the proceeding or to bifurcate the proposed royalty year aggregation.

With respect to the 1999 funds, after the conclusion of a protracted California state lawsuit initiated by IPG, the Judges resolved all remaining issues, *except* allocation of devotional programming funds.[2] To the extent IPG's chronology argument had any weight, that weight is now lifted by the inclusion of the 1999 satellite controversy asserted by IPG in this proceeding.

Similarly, with respect to the issue of consolidating a decade's distributions, the Judges are confident that, after three- to 14- years of discussion, negotiation, and professional courtesies, what remains for judicial consideration is a manageable array of questions, both for counsel representing the parties and for the Judges. Further, the statutory calendar for distribution proceedings provides ample time for discovery, continuing negotiation, and possible settlement of remaining controversies.

No party questioned the existence of controversies relating to the satellite funds at issue. IPG's objections to commencement of the proceeding and to the aggregation of the royalty years for determination are not persuasive. The Judges, therefore, hereby announce the commencement of a Phase II distribution proceeding for satellite royalties deposited between 1999 and 2009, inclusive, pursuant to 17 U.S.C. 803(b)(1) and request Petitions to Participate (PTP) from interested parties.

The assigned Docket Number for this consolidated proceeding shall be 2012–7 CRB SD 1999–2009 (Phase II). To participate in this Phase II proceeding, a party, other than an individual, must be represented by an attorney.

[2] *See* Order dated June 19, 2013 in 2008–5 CRB SD 1999–2000.

Petitions To Participate

Parties in interest must file PTPs in accordance with 37 CFR 351.1(b). Interested parties asserting claims in excess of $1,000 must include with the PTP a filing fee of $150 in the form of check or money order payable to ''Copyright Royalty Board''. If a participant's claim does not exceed $1,000 and if the PTP includes a statement that the participant will not seek a distribution in excess of $1,000, the participant need not submit the filing fee.[3]

The Judges will address scheduling and further procedural matters after receiving Petitions to Participate.

Dated: August 13, 2013.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2013–19966 Filed 8–15–13; 8:45 am]

BILLING CODE 1410–72–P

[3] *See* 17 U.S.C. 803(b)(2)(D)(ii).

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 USC Chapter 35). This information collection notice is published to obtain comments from the public. This is related to NCUA's regulation on the circumstances and conditions under which Federal credit union (FCU) members may inspect and copy the FCU's books, records, and minutes of meetings.

DATES: Comments will be accepted until October 15, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating a previously approved collection of information for 12 CFR § 701.3, Member Inspection of Credit Union Books, Records, and Minutes. Section 701.3 is NCUA's regulation on the circumstances and conditions under which FCU members may inspect and copy the FCU's books, records, and minutes of meetings. The collection of information requirements apply to FCU members seeking inspection and copying of the FCU's records and FCUs that receive such member requests. To obtain access to records, members are required to submit a petition to the FCU, stating a proper purpose for inspection and signed by at least one percent of the members, with a minimum of 20 and a maximum of 500 members. Section 701.3 requires that the FCU must permit inspection of relevant records if it receives such a petition. The members of an FCU own it, and the disclosure requirements placed on an FCU are necessary to ensure transparency and protect the rights of the members. The FCU records disclosed to members as a result of a petition are used by the members to protect their ownership and financial interests. The petition signatures collected by each FCU are used by the FCU to verify the membership status of each petitioner.

The information collection only arises upon a member request. In NCUA's experience, members do not use this petition authority often. NCUA estimates that, on an annual basis and across all FCUs, there will be only approximately five member petitions requesting inspection of FCU records. NCUA estimates that it will take a group of member-petitioners (each group treated as one respondent) approximately ten hours to prepare a petition and submit it to the FCU. Five groups of member-petitioners times ten hours per respondent equals 50 annual burden hours. NCUA estimates that it will take an FCU that receives a petition approximately 20 hours to evaluate the petition, locate the relevant documents, and make them available for inspection

and copying. Five FCUs times 20 hours per respondent equals 100 annual burden hours. The estimated total annual burden hours for all respondents equal 150 hours. The FCU's costs of document search and copying fall on the member-petitioners and not on the FCU.

NCUA requests that you send your comments on the information collection requirements under section 701.3 to the locations listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Member Inspection of Credit Union Books, Records, and Minutes, 12 CFR § 701.3.

OMB Number: 3133–0176.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Section 701.3 is NCUA's regulation on the circumstances and conditions under which FCU members may inspect and copy the FCU's books, records, and minutes of meetings. The collection of information requirements apply to FCU members seeking inspection and copying of the FCU's records and FCUs that receive such member requests. To obtain access to records, members are required to submit a petition to the FCU, stating a proper purpose for inspection and signed by at least one percent of the members, with a minimum of 20 and a maximum of 500 members. Section 701.3 requires that the FCU must permit inspection of relevant records if it receives such a petition. The members of an FCU own it, and the disclosure requirements placed on an FCU are necessary to ensure transparency and protect the rights of the members. The FCU records disclosed to members as a result of a petition are used by the members to protect their ownership and financial interests. The petition signatures collected by each FCU are used by the FCU to verify the membership status of each petitioner.

Respondents: Federal credit unions; members of Federal credit unions.

Estimated No. of Respondents: 10.

Frequency of Response: Upon request.

Estimated Burden Hours per Response: Ranges from 10 to 20 hours.

Estimated Total Annual Burden Hours: 150.

Estimated Total Annual Cost: $4,000.

By the National Credit Union Administration Board on August 13, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19969 Filed 8–15–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection notice is published to obtain comments from the public. This collection of information is related to NCUA's regulation on nondiscrimination requirements in real estate-related lending.

DATES: Comments will be accepted until October 15, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating a previously approved collection of information for 12 CFR 701.31, Nondiscrimination Requirements in Real Estate-Related Lending, Appraisals, and Advertising. Section 701.31 implements requirements of the Fair Housing Act, 42 U.S.C. 3601 *et seq*. It requires each Federal credit union (FCU) to maintain a copy of the real estate appraisal used to support an applicant's real estate-related loan application and to make it available to any requesting member/applicant for a period of 25 months. It also requires an FCU using geographic factors in evaluating real estate-related loan applications to disclose such fact on the appraisal, along with a statement demonstrating the necessity of using such factors. The FCU retains the appraisal with the noted factors in its records to prove compliance with nondiscrimination statutes and regulations. The FCU's borrowers and NCUA use the information to determine whether the FCU discriminates against certain borrowers. This regulation ensures compliance with the Fair Housing Act anti-redlining requirements.

The real estate appraisal is an integral part of most real estate-related loan transactions. The appraisal, factors affecting the appraisal, and record retention are all routinely included in most real estate-related loan transactions as a usual and customary industry practice. Therefore, any cost in time for the FCU is minimal. NCUA estimates that the time required for this collection of information is approximately one hour per year for each FCU. As of July 2, 2013, there were 4,220 FCUs that could make real estate-related loans. 1 hour × 4,220 respondents/recordkeepers = 4,220 total annual burden hours. NCUA does not believe that FCUs will incur any additional costs as a result of the recordkeeping requirement.

NCUA requests that you send your comments on the information collection requirement under section 701.31 to the locations listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could

minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Nondiscrimination Requirements in Real Estate-Related Lending, Appraisals, and Advertising, 12 CFR 701.31.

OMB Number: 3133–0068.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Section 701.31 is NCUA's regulation implementing requirements of the Fair Housing Act, 42 U.S.C. 3601 *et seq.* It requires each FCU to maintain a copy of the real estate appraisal used to support an applicant's real estate-related loan application and to make it available to any requesting member/applicant for a period of 25 months. It also requires an FCU using geographic factors in evaluating real estate-related loan applications to disclose such fact on the appraisal, along with a statement demonstrating the necessity of using such factors. The FCU retains the appraisal with the noted factors in its records to prove compliance with nondiscrimination statutes and regulations. The FCU's borrowers and NCUA use the information to determine whether the FCU discriminates against certain borrowers. This regulation ensures compliance with the Fair Housing Act anti-redlining requirements.

Respondents: Federal Credit Unions.

Estimated No. of Respondents/Recordkeepers: 4,220.

Frequency of Response: Recordkeeping on occasion.

Estimated Burden Hours Per Response: 1 hour.

Estimated Total Annual Burden Hours: 4,220 hours.

Estimated Total Annual Cost: $0.

By the National Credit Union Administration Board on August 13, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19970 Filed 8–15–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 USC Chapter 35). This information collection is not from any new requirements. It is a reinstatement of a prior collection related to NCUA's leasing rule. The rule requires a federal credit union engaged in leasing to obtain or have on file financial documentation demonstrating that the guarantor of an estimated residual value can meet the guarantee. This information collection is being published to obtain comments from the public.

DATES: Comments will be accepted until October 15, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending and reinstating the collection for 3133–0151 for NCUA's leasing regulation. 12 CFR part 714. In a leasing situation, the NCUA requires the financially responsible party to guarantee the excess when the residual value of a lease will exceed 25% of the original cost of the leased property. 12 CFR 714.5. The guarantor may be the manufacturer or an insurance company. The federal credit union must obtain and have on file financial documentation demonstrating that the guarantor has the resources to meet the guarantee. If a manufacturer is involved, the federal credit union must review financial statements for the period that would establish a reasonable financial trend. If an insurance company is involved, it must have a major company rating of at least a B+. The federal credit union will use the information as part of the risk assessment process to analyze and evaluate the financial capabilities and resources of a party that guarantees the residual value used in a leasing arrangement.

There are currently 35 federal credit unions offering leases. Most leases are offered with residual payments of less than 25% of the original leased property value. Therefore, there are a limited number of leases requiring a guarantee. This is estimated to be 5 transactions per year for federal credit unions offering leases. The hourly burden per transaction is approximately 2 hours. Completing the financial review requires a combination of clerical and officer time which is estimated to be a blended hourly rate of $60. Therefore, the estimated annual hourly burden for federal credit unions offering leases is 350 hours, at an hourly cost of $60 resulting in an estimated annual financial burden of $21,000. The burden is minimal and offset by the additional benefit of mitigating and reducing the potential for losses to the credit union.

The NCUA requests that you send your comments on this collection to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Leasing—Statistical Documentation Required for a Guarantor of a Residual Value, 12 CFR part 714.

OMB Number: 3133–0151.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Part 714 of NCUA's Rules and Regulations directs federal credit unions to evaluate whether a guarantor of a residual value has the financial resources to meet the guarantee.

Respondents: All federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 35.

Estimated Burden Hours Per Response: 2 hours.

Estimated Frequency of Response: 5 annually for each Respondent/ Recordkeeper.

Estimated Total Annual Burden Hours: 350.

Estimated Total Annual Cost: $21,000.

By the National Credit Union Administration Board on August 13, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19972 Filed 8–15–13; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0081]

Policy Statement on Adequacy and Compatibility of Agreement State Programs; Statement of Principles and Policy for the Agreement State Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statements; extension of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is extending the comment period of a notice that was published in the **Federal Register** on June 3, 2013 (78 FR 33122), requesting comments on proposed revisions to the NRC's policy statements on Agreement State Programs. Both the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' and the ''Statement of Principles and Policy for the Agreement State Programs'' have been revised to add information on security of radioactive materials and incorporate changes in the NRC's policies and procedures since the last revision in 1997. The public comment period was scheduled to expire on August 19, 2013. However, the NRC received requests for extending the comment period from the Organization of Agreement States (OAS) and from the State of Florida. The parties requested the extension of the comment period so that the Agreement States would have time to discuss the proposed revisions during the OAS annual meeting before submitting their comments. The NRC agrees with these requests and the NRC has decided to extend the comment period until September 16, 2013.

DATES: The comment period has been extended and expires on September 16, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0081. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3442; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

• *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

• *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

• *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lisa Dimmick, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0694, email: *Lisa.Dimmick@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0081 when contacting the NRC about the availability of information for the proposed revisions of the policy statements. You may access publicly-available information related to the proposed revisions of the policy statements by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0081.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access public documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The proposed revisions to the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' are available in under ADAMS Accession No. ML12202B165. The proposed revisions to the ''Statement of Principles and Policy for the Agreement State Program'' are available under ADAMS Accession No. ML12202B157.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0081 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or

entering the comment submissions into ADAMS.

Dated at Rockville, Maryland, this 9th day of August, 2013.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary for the Commission.

[FR Doc. 2013–19853 Filed 8–15–13; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Application for Deferred or Postponed Retirement; Federal Employees Retirement System, RI 92–19

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0190, Application for Deferred or Postponed Retirement: Federal Employees Retirement System, RI 92–19. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until October 15, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, Union Square 370, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler or sent by email to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the U.S. Office of Personnel Management, Retirement Services Publications Team, 1900 E Street NW., Room 4445, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: RI 92–19 is used by separated employees to apply for either a deferred or a postponed FERS annuity benefit.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application for Deferred or Postponed Retirement: Federal Employees Retirement System (FERS).

OMB Number: 3206–0190.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 1964.

Estimated Time Per Respondent: 60 minutes.

Total Burden Hours: 1964.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–19885 Filed 8–15–13; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program: Medically Underserved Areas for 2014

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of Medically Underserved Areas for 2014.

SUMMARY: The U.S. Office of Personnel Management (OPM) has completed its annual determination of the states that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 2014. This is necessary to comply with a provision of the FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in states with critical shortages of primary care physicians. Accordingly, for calendar year 2013, the following 14 states are considered as Medically Underserved Areas under the FEHB Program: Alabama, Arizona, Idaho, Illinois, Louisiana, Mississippi, Missouri, New Mexico, North Dakota, Oklahoma, South Carolina and Wyoming. The states of Montana, and South Dakota are removed as Medically Underserved Area in 2014.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Lynelle T. Frye, 202–606–0004.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) requires special consideration for enrollees of certain FEHB plans who receive covered health services in states with critical shortages of primary care physicians. This section of the law requires that a state be designated as a Medically Underserved Area if 25 percent or more of the population lives in an area designated by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area. Such states are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires non-HMO FEHB plans to reimburse beneficiaries, subject to their contract terms, for covered services obtained from any licensed provider in these states.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the states that qualify as Medically Underserved Areas for the next calendar year by comparing the latest HHS state-by-state population counts on primary medical care manpower shortage areas with U.S. Census figures on state resident populations.

Elaine Kaplan,

Acting Director, U.S. Office of Personnel Management.

[FR Doc. 2013–19886 Filed 8–15–13; 8:45 am]

BILLING CODE 6325–63–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70163; File No. SR–EDGA–2013–24]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 2.5 To Outline the Continuing Education Requirements for Series 56 Licensees and Its Fee Schedule To Include Fees for the Series 56 Examination and Its Related Continuing Education Requirements

August 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2013, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend: (1) Exchange Rule 2.5 to: (i) Outline the continuing education requirements for Authorized Traders [3] of Members [4] registered solely as Proprietary Traders [5] by having successfully completed the Proprietary Trader Qualification Examination (''Series 56''); and (ii) make a clarifying change to the Interpretation and Policy .06; and (2) the fees and rebates applicable to Members of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to include fees for the Series 56 examination and its related continuing education requirements. All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend: (1) Rule 2.5 to: (i) Outline the continuing education requirements for Authorized Traders of Members registered solely as Proprietary Traders by having successfully completed the Series 56 examination; and (ii) make a clarifying change to the Interpretation and Policy .06; and (2) its Fee Schedule to include fees for the Series 56 examination and its related continuing education requirements.

On February 1, 2012, the Exchange amended its rules to recognize a new category of limited representative registration for Proprietary Traders [6] by expanding its registration requirements to include the Series 56 examination as one of the applicable qualification examinations accepted by the Exchange.[7] The Series 56 examination program is administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange.

The Exchange permits the Series 56 examination for Proprietary Traders that engage solely in proprietary trading on the Exchange so long as certain conditions are met. First, the Member must be a proprietary trading firm.[8] Second, the Authorized Trader of a Member must be considered a Proprietary Trader. Interpretation and Policy .03 of Exchange Rule 2.5 identifies the Series 56 as an appropriate qualification examination for Proprietary Traders' limited representative registration.[9]

Series 56 Continuing Education Requirements

The Exchange now proposes to amend Interpretation and Policy .04 to Rule 2.5 to outline the continuing education requirements for Authorized Traders of Members registered solely as Proprietary Traders by having successfully completed the Series 56 examination. Like the Series 56 exam, FINRA is to administer the continuing education program on behalf of the Exchange. Proprietary Traders who hold the Series 56 registration pursuant to Interpretation and Policy .04 to Rule 2.5 would be required to complete the related continuing education administered by FINRA on behalf of the Exchange known as the S501. Authorized Traders of Members who hold the Series 7 registration would continue to complete the Regulatory Element for Continuing Education Requirement (''Regulatory Element'') known as the S101.

The Exchange also proposes to amend Interpretation and Policy .04 to Rule 2.5 to apply the same criteria to the S501 as it currently requires for the S101 as part of the Regulatory Element. First, like the Regulatory Element, the S501 must be completed within 120 days after the respective registration anniversary date. A person's initial registration date, also known as the ''base date,'' shall establish the cycle of anniversary dates. Second, Series 56 registrants who have not completed the S501 within the prescribed time frames will have their registrations deemed inactive until such time as such requirements have been

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Authorized Trader'' is defined as ''a person who may submit orders (or who supervises a routing engine that may automatically submit orders) to the Exchange's trading facilities on behalf of his or her Member or Sponsored Participant.'' *See* Exchange Rule 1.5(c).

[4] ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''Member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[5] ''Proprietary Trader'' is defined under Interpretation and Policy .06(2) to Exchange Rule 2.5.

[6] Interpretation and Policy .06(2) of Exchange Rule 2.5 defines a Proprietary Trader as an Authorized Trader whose activities in the investment banking or securities business are limited solely to proprietary trading; passes an appropriate qualification examination; and is an associated person of a proprietary trading firm as defined in Interpretation and Policy .06(1) of Exchange Rule 2.5.

[7] *See* Securities Exchange Act Release No. 66363 (February 9, 2012), 77 FR 8928 (February 15, 2012) (SR–EDGA–2012–04) (Notice of Filing and Immediate Effectiveness).

[8] If amended as proposed, Interpretation and Policy .06(1) of Exchange Rule 2.5 would define a proprietary trading firm as a firm that embodies the following characteristics: the Member is not required by Section 15(b)(8) of the Act to become a FINRA member; all funds used or proposed to be used by the Member for trading are the Member's own capital, traded through the Member's own accounts; the Member does not, and will not have ''customers''; and all Principals and Authorized Traders of the Member acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Member.

[9] For Authorized Traders of Members who do not engage solely in proprietary trading, the Exchange requires the General Securities Representative Examination (''Series 7'') or equivalent foreign examination module approved by the Exchange as defined in Interpretation and Policy .05 of Exchange Rule 2.5. *See* Interpretation and Policy .03 of Exchange Rule 2.5.

satisfied. Any person whose registration has been deemed inactive shall cease all activities as a Proprietary Trader and will be prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is terminated may reactivate the registration only by reapplying for registration under the Exchange rules.

Similar to the requirements for the Regulatory Element,[10] a Proprietary Trader-Series 56 license holder will be required to re-satisfy the S501 where that person: (1) Is subject to any statutory disqualification as defined in Section 3(a)(39) of the Act; (2) is subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or (3) is ordered as a sanction in a disciplinary action to retake the S501 by any securities governmental agency or self-regulatory organization.

Like the Regulatory Element, the retaking of the S501 must commence within 120 days of the Proprietary Trader-Series 56 license holder becoming subject to the statutory disqualification, in the case of (1) above, or the disciplinary action becoming final, in the case of (2) and (3) above. The date of the disciplinary action shall be treated as such person's new base date with the Exchange.

Any Proprietary Trader-Series 56 license holder who has terminated association with a Member and who has, within two years of the date of termination, become reassociated in a registered capacity with a Member shall satisfy the S501 at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

The Exchange proposes to include the Series 56 continuing education requirement in its rules to ensure Authorized Traders of Members maintain specified levels of competence and knowledge generally applicable to proprietary trading, thereby enhancing the quality of Authorized Traders on the Exchange. Thus, the codification of these requirements in the proposed amendments to Rule 2.5 makes clear to Members their requirements related to the Series 56 exam, including applicable continuing education requirements.

The Exchange proposes to implement the Series 56 continuing education program upon availability in WebCRD®, the central licensing and registration system operated by FINRA (''WebCRD'').

Clarification to Interpretation and Policy .06 to Rule 2.5

The Exchange proposes to delete unnecessary language from Interpretation and Policy .06 to Rule 2.5. Currently, Interpretation and Policy .06(1) of Rule 2.5 defines a proprietary trading firm. As part of the definition, the Member must not be required by Section 15(b)(8) of the Act[11] to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Act.[12] The Exchange proposes to delete the requirement that the Member must also be a member of another registered securities exchange. The proprietary trading firm need only be a current Exchange Member and not required to be a FINRA Member by Section 15(b)(8) of the Act.[13] Therefore, the Exchange proposes to delete this requirement from its rules.

Series 56 Exam and Continuing Education Fees

The Exchange proposes to add to its Fee Schedule a $195 fee per person, per Series 56 examination and a $60 per person, per session fee for the related continuing education. The Exchange's Fee Schedule does not currently set forth the fees applicable for the Series 7 and Regulatory Element as these programs are within FINRA's jurisdiction and collected by FINRA from its members. On the contrary, the Series 56 and its continuing education requirements apply to Members that are not required by Section 15(b)(8) of the Act[14] to become a FINRA member. Therefore, the Exchange proposes to include these fees in its Fee Schedule to make clear to Members the costs of the Series 56 exam and its related continuing education. However, Members would continue to submit the exam fee to FINRA, as well as the fee for continuing education.[15] The Exchange will not invoice or collect these fees.

The fees are designed to reflect the costs incurred in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading.

2. Statutory Basis

Series 56 Continuing Education Requirements

The Exchange believes that its proposal to require continuing education for Authorized Traders of Members that hold the Proprietary Trader-Series 56 license is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(c)(3)(B) of the Act.[17] Under that section, it is the Exchange's responsibility to prescribe standards of training, experience, and competence for Exchange Members and their associated persons, in particular, by offering an alternative continuing education program for Proprietary Traders that more closely reflects the practical knowledge that is a pre-requisite for proprietary trading. Pursuant to this statutory obligation, the Exchange proposes to require Authorized Traders of Members that hold the Series 56 license to complete the related continuing education. The Exchange believes the Series 56 continuing education requirement would enable Authorized Traders of Members to maintain specified levels of competence and knowledge generally applicable to proprietary trading. Thus, the codification of these requirements in the proposed amendments to Rule 2.5 makes clear to Members their requirements related to the Series 56 exam, including applicable continuing education requirements, by codifying such requirements in the Exchange's rules.

In addition, the Exchange believes that the proposed rule change is consistent with the principles of Section 11A(a)(1)(C)(ii) of the Act[18] in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule will promote uniformity of regulation across markets, thus reducing opportunities for regulatory arbitrage.[19] The proposed rule change helps ensure that all persons conducting a securities business

[10] *See* Interpretation and Policy .04 of Exchange Rule 2.5.

[11] 15 U.S.C. 78o(b)(8).

[12] 15 U.S.C. 78f(g).

[13] 15 U.S.C. 78o(b)(8).

[14] 15 U.S.C. 78o(b)(8).

[15] The Exchange notes that FINRA has historically collected the $195 Series 56 examination fee on behalf of the Exchange to cover its cost of administering the Series 56 exam program.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(c)(3)(B).

[18] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[19] *See infra* note 24.

through the Exchange are appropriately registered and maintain specified levels of competence, as the Commission expects of all self-regulatory organizations.

Clarification to Interpretation and Policy .06 to Rule 2.5

The Exchange believes that the proposal to delete unnecessary language from Interpretation and Policy .06 to Rule 2.5 is consistent with Section 6(b) of the Act [20] and furthers the objectives of Section 6(b)(5) of the Act,[21] in that it is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by eliminating unnecessary confusion with respect to the Exchange's rules. The Exchange proposes to delete the requirement that the Member must also be a member of another registered securities exchange because it is superfluous.

Series 56 Exam and Continuing Education Fees

The Exchange also believes that the proposed examination and continuing education fees are consistent with the objectives of Section 6 of the Act,[22] in general, and furthers the objectives of Section 6(b)(4),[23] in particular, in that they are designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members. The Series 56 examination and continuing education fees are reasonably designed to allow FINRA to cover its cost of administering the Series 56 exam program on behalf of the Exchange. The fee for the Series 56 exam is greater than the fee for continuing education because the exam fee is also designed to cover the costs associated with developing not just the Series 56 exam, but also the related S501 continuing education program. The S501 continuing education fee is set to only cover the costs of administering the continuing education sessions. The Exchange notes that it will not invoice or collect funds from Members that are subject to these fees because these fees will be paid directly to FINRA. FINRA incurs costs in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading. Therefore, the Exchange believes it is reasonable and equitable to include these fees in its Fee Schedule to make clear to Members the costs of the Series 56 exam and its related continuing education requirement. The Exchange also believes these fees are reasonable because it understands that other exchanges will be assessing identical fees to be collected by FINRA for the Series 56 exam and continuing education program.[24] In addition, the Exchange believes these fees are not unfairly discriminatory in that they apply to all Members uniformly.

B. Self-Regulatory Organization's Statement on Burden on Competition

Series 56 Continuing Education Requirements

The Exchange does not believe that its proposal to require continuing education for Authorized Traders of Members that hold the Series 56 license will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended, because Proprietary Traders must hold a Series 56 license and complete the required continuing education regardless of the exchange with which they are registered. The proposed rule change will not impose any burden on intramarket competition as all Authorized Traders of Members that are Proprietary Traders are required to pass the Series 56 exam and complete the related continuing education as outlined in Exchange Rule 2.5.

Clarification to Interpretation and Policy .06 to Rule 2.5

The proposal to delete unnecessary language from Interpretation and Policy .06(1) to Rule 2.5 does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This language is superfluous as the Exchange does not, in practice, require a proprietary trading firm to also be a member of another exchange.

Series 56 Exam and Continuing Education Fees

The Exchange also does not believe that the proposed examination and continuing education fees will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that its proposal would neither increase nor decrease intramarket competition because the fees would apply uniformly to all Members. In addition, the Exchange believes that its proposal would neither increase nor decrease intermarket competition because other exchanges will be assessing identical fees to be collected by FINRA for the Series 56 exam and continuing education program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and Rule 19b–4(f)(6) thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay. The proposed rule change specifies the continuing education requirements for Authorized Traders of Members registered solely as proprietary traders by having passed the Series 56 examination; deletes unnecessary language from Interpretation and Policy .06 of Exchange Rule 2.5; and adds to the Exchange's Fee Schedule the fees for the Series 56 examination and the S501. Waiver of the operative delay would allow the Exchange to clarify its rules and implement the proposed rule change without delay once the Series 56 examination fee, S501 continuing education program and the related fee are available in WebCRD, enabling its Members to comply with their

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f.

[23] 15 U.S.C. 78f(b)(4).

[24] The Exchange participates in the ''Proprietary Traders Examination Committee'' for the Series 56 exam and continuing education requirements with the other exchanges. Through this Committee, the Exchange believes that other exchanges will be submitting proposed rule changes with the Commission to adopt the same fees for the Series 56 exam and continuing education. The exchanges that participate on the Committee include: Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT, LLC; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; Nasdaq OMX BX, Inc.; Nasdaq OMX PHLX, LLC; BATS Y-Exchange, Inc.; BATS Exchange, Inc.; EDGX Exchange, Inc.; and the International Securities Exchange, LLC.

[25] 15 U.S.C. 78s(b)(3)(A).

examination and continuing education requirements in a timely manner, and thus is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.[26]

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2013–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2013–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2013–24 and should be submitted on or before September 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19910 Filed 8–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70159; File No. SR–NASDAQ–2013–102]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of a Proposed Rule Change to Assume Operational Responsibility for Certain Surveillance Activity Currently Performed by FINRA Under the Exchange's Authority and Supervision

August 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing to assume operational responsibility for certain surveillance activity currently performed by the Financial Industry Regulatory Authority (''FINRA'') under the Exchange's authority and supervision.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 6 of the Act requires that national securities exchanges enforce their members' compliance with federal securities laws and rules as well as the exchanges' own rules.[3] As a self-regulatory organization (''SRO''), NASDAQ must conduct surveillance of trading on the Exchange as part of a comprehensive regulatory program that also includes member examinations and investigation and prosecution of suspicious activity. Since it became a national securities exchange, NASDAQ has contracted with FINRA through various regulatory services agreements to perform certain surveillance and other regulatory functions on its behalf. However, as the Commission has made clear, ''the Nasdaq Exchange bears the responsibility for self-regulatory conduct and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on the Exchange's behalf.'' [4]

Notwithstanding its use of FINRA, the Exchange has also retained operational responsibility for a number of surveillance and other regulatory functions including real-time surveillance, qualification of companies listed on NASDAQ and most surveillance related to its affiliated options markets. Historically NASDAQ retained operational responsibility in areas where NASDAQ's expertise regarding its own markets, technology and listed companies enhanced regulation. For the reasons outlined

[26] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] Securities Exchange Act Release No. 53128 at 28 (January 13, 2006), 71 FR 3550, 3556 (January 23, 2006).

below, NASDAQ now proposes to reallocate operational responsibility from FINRA to NASDAQ Regulation for a limited number of equities surveillance patterns and related review functions focused on:

- Manipulation patterns that monitor solely NASDAQ activity, including patterns that monitor the Exchange's opening and closing crosses and compliance with minimum bid listing requirements, and
- monitoring of compliance by member firms with elements of Regulation M and NASDAQ Rule 4619 compliance.

FINRA operates a full suite of equities surveillance patterns on behalf of NASDAQ that covers many types of potential misconduct. In recent years FINRA, with NASDAQ's oversight and approval, modified a number of these NASDAQ patterns to incorporate data from markets operated by NYSE Euronext. NASDAQ plans to continue to participate in this cross-market surveillance performed by FINRA, some of which focuses on identifying similar violative activity, which will not be impacted by this proposal. However, a limited number of FINRA's patterns only review NASDAQ market data and detect conduct occurring only on the Exchange. These patterns incorporate unique elements of NASDAQ's market structure and focus on trading activity in the NASDAQ opening and closing cross process, as well as NASDAQ minimum bid listing standards, an area already regulated by NASDAQ. An additional pattern monitors attempts to manipulate NASDAQ using small orders to advantage larger orders placed on the opposite side of the NASDAQ market at an improved price (often referred to as ''odd lot manipulation'' or ''mini-manipulation'').

NASDAQ believes that its expertise in its own market structure coupled with its continued monitoring of these activities in real-time will enable it to enhance existing patterns to better detect improper activity on its market. In addition, these patterns, the underlying rules, and analytical requirements are similar to patterns NASDAQ regulatory personnel already operate for affiliated options markets. For example, NASDAQ regulatory personnel routinely monitor affiliated options markets for market closing activity and other patterns designed to detect various types of price influence.

NASDAQ also proposes to assume operational responsibility for real-time monitoring of compliance by market makers that are members of an underwriting syndicate with the quoting and trading restrictions in Rules 101 and 103 under the Act [5] and NASDAQ Rule 4619. Lead underwriters affected by the rules file a Regulation M Commencement Notification at the beginning of a secondary offering and subsequent Underwriter Activity Report for the offering. The surveillance pattern monitors quoting and trading of firms that are designated as participants in the secondary offering and alerts regulatory staff if a firm that has requested passive market making exceeds its trading thresholds or an excused withdrawal has traded in a way that could lead to violations of the rules. The activity is monitored in real-time and firms are called upon receipt of regulatory alerts to prevent potential or further violations. This is the only real-time surveillance function performed by FINRA and NASDAQ believes that this responsibility is more properly handled by NASDAQ's MarketWatch group that handles all other real-time surveillance of the NASDAQ market. MarketWatch already has responsibility for monitoring similar activity on NASDAQ OMX BX by market makers participating in secondary offerings, although this surveillance is not currently active as BX does not have any registered market makers.

NASDAQ plans to operate the surveillance patterns referenced above in the SMARTS surveillance system. SMARTS is a state-of-the-art surveillance platform used in 26 markets and by 9 government regulators around the world. NASDAQ plans to use SMARTS for both real-time monitoring and the limited non-real time surveillance covered by this proposal. Running the patterns in real-time will permit an expedited review of critical alerts that previously would not have been completed the same day. It will now be easier to quickly compare unusual activity noted as part of NASDAQ's operations monitoring of market activity with surveillance alerts. NASDAQ anticipates being able to refer a broader cross section of problematic activity to FINRA for expedited review than was previously the case.

NASDAQ Regulation intends to leverage its existing staff of experienced analysts, lawyers, programmers and market structure experts to perform the new functions covered by this proposal. This group is working with NASDAQ's regulatory technology group to develop and test the surveillance patterns that will run in the SMARTS system. This distribution of responsibilities was the result of detailed discussions between NASDAQ and FINRA that focused on reallocating responsibilities based on the core competencies of each organization. NASDAQ Regulation and FINRA have developed comprehensive plans covering the transition and the groups have met regularly over more than nine months to ensure a smooth transition of the work and prevent any gaps in surveillance coverage. NASDAQ and FINRA anticipate a phased transition of patterns, with NASDAQ formally relieving FINRA of operational responsibility for each pattern once testing, training, procedures and other preparations are completed. FINRA will retire each pattern once relieved of responsibility. After the transition, NASDAQ Regulation will review surveillance alerts and refer potentially violative conduct to FINRA using existing processes and systems. FINRA will continue to have operational responsibility for the vast majority of surveillances involving NASDAQ's equity market as well as examination and enforcement matters, subject to NASDAQ's supervision and ultimate responsibility.

The provisions of NASDAQ Rule 0150 require that NASDAQ obtain Commission approval if regulatory functions subject to the regulatory services agreement in effect at the time NASDAQ became a national securities exchange are no longer performed by FINRA or another independent self-regulatory organization. For the reasons stated above, NASDAQ believes that the reassignment of operational responsibility for a limited number of equities surveillance patterns will further its regulatory program and benefit investors and the markets. Commission approval of the proposal would allow NASDAQ OMX to better leverage data and systems across its three equities exchanges, including NASDAQ OMX PHLX, an affiliate of NASDAQ, that does not have an equivalent to Rule 0150 requiring Commission approval for this reallocation.

In addition, NASDAQ notes that its proposal is consistent with, but more limited than, surveillance work performed by other national securities exchanges. The SEC has previously approved several applications for registration as national securities exchanges in which the SRO proposed to perform its own surveillance function. For example, the SEC approved BATS Exchange's application where BATS performed most surveillance for its markets, finding in its approval order that it was consistent with the Act for BATS Exchange to contract with FINRA to perform regulatory functions limited to ''examination, enforcement, and

[5] 17 CFR 242.101 and 17 CFR 242.103.

disciplinary functions.''[6] Similarly, NASDAQ understands that Miami International Securities Exchange (''MIAX'') performs the majority of its surveillance operations in-house. This is consistent with MIAX's Form 1, which states that the new exchange entered into a regulatory services agreement with CBOE that is limited to ''conducting *certain* market surveillances'' in addition to other regulatory work.[7]

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general and with Sections 6(b)(5) of the Act,[9] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that this proposal is in keeping with those principles by leveraging the SMARTS technology system that has the ability to operate in real-time and, as a consequence, will permit NASDAQ to react more quickly to potential manipulation in the applicable regulatory areas covered by this proposal. The surveillance patterns to be reallocated to NASDAQ involve solely activity on NASDAQ's own market. NASDAQ believes that its expertise in its own market structure, coupled with its existing monitoring of these activities in real-time, will enable it to enhance current patterns to better detect improper activity on its market. In addition, NASDAQ will be able to leverage the knowledge and the regulatory staff that already perform similar work for affiliated options markets.

NASDAQ will continue to refer potentially violative conduct to FINRA for further review. Moreover, FINRA will continue to perform the vast majority of surveillance activity for NASDAQ's equities markets, in many cases using patterns that incorporate data from other market centers. FINRA will also perform examination and enforcement work, subject to NASDAQ's supervision and ultimate responsibility.

NASDAQ also believes the proposal is consistent with the Act because, as the Commission has made clear on many occasions, an SRO cannot delegate its ultimate responsibility for surveillance in the absence of an SEC-approved agreement under Section 17(d)(2) of the Act, and therefore must remain involved and responsible for its regulatory program. In addition, NASDAQ notes that its proposal is consistent with, but more limited than, surveillance work performed by other national securities exchanges. As noted above, the SEC has previously approved several applications for registration as national securities exchanges in which the SRO proposed to perform its own surveillance function.[10] NASDAQ believes it would therefore be consistent with the Act for NASDAQ to perform a much more limited surveillance function than has been approved for other exchanges and, in fact, more limited than surveillance functions NASDAQ already performs for non-cash equities markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–102 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–102. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–102, and should be submitted on or before September 6, 2013.

[6] Securities Exchange Act Release No. 34–58375 (August 18, 2008), 73 FR 49498 (August 21, 2008).

[7] Securities Exchange Act Release No. 34–68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (emphasis added).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] *See supra* notes 6 and 7, and accompanying text discussing the surveillance work by BATS and MIAX.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19907 Filed 8–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70158; File No. SR–BX–2013–047]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of a Proposed Rule Change To Assume Operational Responsibility for Certain Surveillance Activity Currently Performed by FINRA Under the Exchange's Authority and Supervision

August 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2013 NASDAQ OMX BX, Inc. (''BX'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to assume operational responsibility for certain surveillance activity currently performed by the Financial Industry Regulatory Authority (''FINRA'') under the Exchange's authority and supervision.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 6 of the Act requires that national securities exchanges enforce their members' compliance with federal securities laws and rules as well as the exchanges' own rules.[3] As a self-regulatory organization (''SRO''), BX must conduct surveillance of trading on the Exchange as part of a comprehensive regulatory program that also includes member examinations and investigation and prosecution of suspicious activity. Since its acquisition by The NASDAQ OMX Group, Inc., BX has contracted with FINRA through various regulatory services agreements to perform certain surveillance and other regulatory functions on its behalf. However, as the Commission has made clear with respect to BX's affiliate, the NASDAQ Stock Exchange LLC (''NASDAQ''), ''the Nasdaq Exchange bears the responsibility for self-regulatory conduct and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on the Exchange's behalf.''[4]

Notwithstanding its use of FINRA, the Exchange has also retained operational responsibility for a number of surveillance and other regulatory functions including real-time surveillance, qualification of companies listed on NASDAQ and most surveillance related to its affiliated options markets. Historically BX retained operational responsibility in areas where BX's expertise regarding its own markets, technology and listed companies enhanced regulation. For the reasons outlined below, BX now proposes to reallocate operational responsibility from FINRA to BX Regulation for a limited number of equities surveillance patterns and related review functions focused on:

- Manipulation patterns that monitor solely BX activity, including patterns that monitor activity that might impact the opening and closing cross process on NASDAQ and compliance with minimum bid listing requirements by companies listed on NASDAQ, and
- Monitoring of compliance by NASDAQ member firms with elements of Regulation M and NASDAQ Rule 4619 compliance, which will include data from BX.

FINRA operates a full suite of equities surveillance patterns on behalf of BX that covers many types of potential misconduct. In recent years FINRA, with BX's oversight and approval, modified a number of these BX patterns to incorporate data from markets operated by NYSE Euronext. BX plans to continue to participate in this cross-market surveillance performed by FINRA, some of which focuses on identifying similar violative activity, which will not be impacted by this proposal. However, a limited number of FINRA's patterns only review BX market data and detect conduct occurring only on the Exchange. These patterns incorporate unique elements of BX's market structure and focus on trading activity in the BX that might impact the opening and closing cross process on NASDAQ,[5] as well as activity on BX that might impact minimum bid listing standards for securities listed on NASDAQ, an area already regulated by NASDAQ. An additional pattern monitors attempts to manipulate BX using small orders to advantage larger orders placed on the opposite side of the BX market at an improved price (often referred to as ''odd lot manipulation'' or ''mini-manipulation'').

BX believes that its expertise in its own market structure coupled with its continued monitoring of these activities in real-time will enable it to enhance existing patterns to better detect improper activity on its market. In addition, these patterns, the underlying rules, and analytical requirements are similar to patterns BX regulatory personnel already operate for affiliated options markets. For example, BX regulatory personnel routinely monitor affiliated options markets for market closing activity and other patterns designed to detect various types of price influence.

In a separate filing NASDAQ also proposes to assume operational responsibility for real-time monitoring of compliance by market makers that are members of an underwriting syndicate with the quoting and trading restrictions in Rules 101 and 103 under the Act[6] and NASDAQ Rule 4619.[7] The activity is monitored in real-time and firms are called upon receipt of regulatory alerts to prevent potential or further violations. MarketWatch already has responsibility for monitoring similar activity on BX by market makers participating in secondary offerings, although this surveillance is not

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] Securities Exchange Act Release No. 53128 at 28 (January 13, 2006), 71 FR 3550, 3556 (January 23, 2006).

[5] FINRA runs additional patterns looking for manipulation of trading on BX as part of its cross market manipulation patterns.

[6] 17 CFR 242.101 and 17 CFR 242.103.

[7] SR–NASDAQ–2013–102.

currently active as BX does not have any registered market makers. However, the pattern run for NASDAQ would incorporate BX data, thereby adding to the efficacy of the NASDAQ pattern.

BX plans to operate the surveillance patterns referenced above in the SMARTS surveillance system. SMARTS is a state-of-the-art surveillance platform used in 26 markets and by 9 government regulators around the world. BX plans to use SMARTS for both real-time monitoring and the limited non-real time surveillance covered by this proposal. Running the patterns in real-time will permit an expedited review of critical alerts that previously would not have been completed the same day. It will now be easier to quickly compare unusual activity noted as part of BX's operations monitoring of market activity with surveillance alerts. BX anticipates being able to refer a broader cross section of problematic activity to FINRA for expedited review than was previously the case.

BX Regulation intends to leverage its existing staff of experienced analysts, lawyers, programmers and market structure experts to perform the new functions covered by this proposal. This group is working with BX's regulatory technology group to develop and test the surveillance patterns that will run in the SMARTS system. This distribution of responsibilities was the result of detailed discussions between BX and FINRA that focused on reallocating responsibilities based on the core competencies of each organization. BX Regulation and FINRA have developed comprehensive plans covering the transition and the groups have met regularly over more than nine months to ensure a smooth transition of the work and prevent any gaps in surveillance coverage. BX and FINRA anticipate a phased transition of patterns, with BX formally relieving FINRA of operational responsibility for each pattern once testing, training, procedures and other preparations are completed. FINRA will retire each pattern once relieved of responsibility. After the transition, BX Regulation will review surveillance alerts and refer potentially violative conduct to FINRA using existing processes and systems. FINRA will continue to have operational responsibility for the vast majority of surveillances involving BX's equity market as well as examination and enforcement matters, subject to BX's supervision and ultimate responsibility.

The provisions of BX Rule 0150 require that BX obtain Commission approval if regulatory functions subject to the regulatory services agreement in effect at the time BX first executed the agreement in 2008 are no longer performed by FINRA or another independent self-regulatory organization. For the reasons stated above, BX believes that the reassignment of operational responsibility for a limited number of equities surveillance patterns will further its regulatory program and benefit investors and the markets. Commission approval of the proposal would allow NASDAQ OMX to better leverage data and systems across its three equities exchanges, including NASDAQ OMX PHLX, an affiliate of BX, that does not have an equivalent to Rule 0150 requiring Commission approval for this reallocation.

In addition, BX notes that its proposal is consistent with, but more limited than, surveillance work performed by other national securities exchanges. The SEC has previously approved several applications for registration as national securities exchanges in which the SRO proposed to perform its own surveillance function. For example, the SEC approved BATS Exchange's application where BATS performed most surveillance for its markets, finding in its approval order that it was consistent with the Act for BATS Exchange to contract with FINRA to perform regulatory functions limited to ''examination, enforcement, and disciplinary functions.'' [8] Similarly, BX understands that Miami International Securities Exchange (''MIAX'') performs the majority of its surveillance operations in-house. This is consistent with MIAX's Form 1, which states that the new exchange entered into a regulatory services agreement with CBOE that is limited to ''conducting *certain* market surveillances'' in addition to other regulatory work.[9]

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general and with Sections 6(b)(5) of the Act,[11] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that this proposal is in keeping with those principles by leveraging the SMARTS technology system that has the ability to operate in real-time and, as a consequence, will permit BX to react more quickly to potential manipulation in the applicable regulatory areas covered by this proposal. The surveillance patterns to be reallocated to BX involve solely activity on BX's own market. BX believes that its expertise in its own market structure, coupled with its existing monitoring of these activities in real-time, will enable it to enhance current patterns to better detect improper activity on its market. In addition, BX will be able to leverage the knowledge and the regulatory staff that already perform similar work for affiliated options markets.

BX will continue to refer potentially violative conduct to FINRA for further review. Moreover, FINRA will continue to perform the vast majority of surveillance activity for BX's equities market, in many cases using patterns that incorporate data from other market centers. FINRA will also perform examination and enforcement work, subject to BX's supervision and ultimate responsibility.

BX also believes the proposal is consistent with the Act because, as the Commission has made clear on many occasions, an SRO cannot delegate its ultimate responsibility for surveillance in the absence of an SEC-approved agreement under Section 17(d)(2) of the Act, and therefore must remain involved and responsible for its regulatory program. In addition, BX notes that its proposal is consistent with, but more limited than, surveillance work performed by other national securities exchanges. As noted above, the SEC has previously approved several applications for registration as national securities exchanges in which the SRO proposed to perform its own surveillance function.[12] BX believes it would therefore be consistent with the Act for BX to perform a much more limited surveillance function than has been approved for other exchanges and, in fact, more limited than surveillance functions BX already performs for non-cash equities markets.

[8] Securities Exchange Act Release No. 34–58375 (August 18, 2008), 73 FR 49498 (August 21, 2008).

[9] Securities Exchange Act Release No. 34–68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (emphasis added).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] *See supra* notes 8 and 9, and accompanying text discussing the surveillance work by BATS and MIAX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2013–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2013–047. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2013–047, and should be submitted on or before September 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19906 Filed 8–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70162; File No. SR–EDGX–2013–31]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 2.5 To Outline the Continuing Education Requirements for Series 56 Licensees and Its Fee Schedule To Include Fees for the Series 56 Examination and Its Related Continuing Education Requirements

August 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend: (1) Exchange Rule 2.5 to: (i) outline the continuing education requirements for Authorized Traders[3] of Members[4] registered solely as Proprietary Traders[5] by having successfully completed the Proprietary Trader Qualification Examination (''Series 56''); and (ii) make a clarifying change to the Interpretation and Policy .06; and (2) the fees and rebates applicable to Members of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to include fees for the Series 56 examination and its related continuing education requirements. All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at www.directedge.com, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend: (1) Rule 2.5 to: (i) outline the continuing

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Authorized Trader'' is defined as ''a person who may submit orders (or who supervises a routing engine that may automatically submit orders) to the Exchange's trading facilities on behalf of his or her Member or Sponsored Participant.'' *See* Exchange Rule 1.5(c).

[4] ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''Member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[5] ''Proprietary Trader'' is defined under Interpretation and Policy .06(2) to Exchange Rule 2.5.

education requirements for Authorized Traders of Members registered solely as Proprietary Traders by having successfully completed the Series 56 examination; and (ii) make a clarifying change to the Interpretation and Policy .06; and (2) its Fee Schedule to include fees for the Series 56 examination and its related continuing education requirements.

On February 1, 2012, the Exchange amended its rules to recognize a new category of limited representative registration for Proprietary Traders [6] by expanding its registration requirements to include the Series 56 examination as one of the applicable qualification examinations accepted by the Exchange.[7] The Series 56 examination program is administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange.

The Exchange permits the Series 56 examination for Proprietary Traders that engage solely in proprietary trading on the Exchange so long as certain conditions are met. First, the Member must be a proprietary trading firm.[8] Second, the Authorized Trader of a Member must be considered a Proprietary Trader. Interpretation and Policy .03 of Exchange Rule 2.5 identifies the Series 56 as an appropriate qualification examination for Proprietary Traders' limited representative registration.[9]

Series 56 Continuing Education Requirements

The Exchange now proposes to amend Interpretation and Policy .04 to Rule 2.5 to outline the continuing education requirements for Authorized Traders of Members registered solely as Proprietary Traders by having successfully completed the Series 56 examination. Like the Series 56 exam, FINRA is to administer the continuing education program on behalf of the Exchange. Proprietary Traders who hold the Series 56 registration pursuant to Interpretation and Policy .04 to Rule 2.5 would be required to complete the related continuing education administered by FINRA on behalf of the Exchange known as the S501. Authorized Traders of Members who hold the Series 7 registration would continue to complete the Regulatory Element for Continuing Education Requirement (''Regulatory Element'') known as the S101.

The Exchange also proposes to amend Interpretation and Policy .04 to Rule 2.5 to apply the same criteria to the S501 as it currently requires for the S101 as part of the Regulatory Element. First, like the Regulatory Element, the S501 must be completed within 120 days after the respective registration anniversary date. A person's initial registration date, also known as the ''base date,'' shall establish the cycle of anniversary dates. Second, Series 56 registrants who have not completed the S501 within the prescribed time frames will have their registrations deemed inactive until such time as such requirements have been satisfied. Any person whose registration has been deemed inactive shall cease all activities as a Proprietary Trader and will be prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is terminated may reactivate the registration only by reapplying for registration under the Exchange rules.

Similar to the requirements for the Regulatory Element,[10] a Proprietary Trader—Series 56 license holder will be required to re-satisfy the S501 where that person: (1) Is subject to any statutory disqualification as defined in Section 3(a)(39) of the Act; (2) is subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or (3) is ordered as a sanction in a disciplinary action to retake the S501 by any securities governmental agency or self-regulatory organization.

Like the Regulatory Element, the retaking of the S501 must commence within 120 days of the Proprietary Trader—Series 56 license holder becoming subject to the statutory disqualification, in the case of (1) above, or the disciplinary action becoming final, in the case of (2) and (3) above. The date of the disciplinary action shall be treated as such person's new base date with the Exchange.

Any Proprietary Trader—Series 56 license holder who has terminated association with a Member and who has, within two years of the date of termination, become reassociated in a registered capacity with a Member shall satisfy the S501 at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

The Exchange proposes to include the Series 56 continuing education requirement in its rules to ensure Authorized Traders of Members maintain specified levels of competence and knowledge generally applicable to proprietary trading, thereby enhancing the quality of Authorized Traders on the Exchange. Thus, the codification of these requirements in the proposed amendments to Rule 2.5 makes clear to Members their requirements related to the Series 56 exam, including applicable continuing education requirements.

The Exchange proposes to implement the Series 56 continuing education program upon availability in WebCRD®, the central licensing and registration system operated by FINRA (''WebCRD'').

Clarification to Interpretation and Policy .06 to Rule 2.5

The Exchange proposes to delete unnecessary language from Interpretation and Policy .06 to Rule 2.5. Currently, Interpretation and Policy .06(1) of Rule 2.5 defines a proprietary trading firm. As part of the definition, the Member must not be required by Section 15(b)(8) of the Act [11] to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Act.[12] The Exchange proposes to delete the requirement that the Member must also be a member of another registered securities exchange. The

[6] Interpretation and Policy .06(2) of Exchange Rule 2.5 defines a Proprietary Trader as an Authorized Trader whose activities in the investment banking or securities business are limited solely to proprietary trading; passes an appropriate qualification examination; and is an associated person of a proprietary trading firm as defined in Interpretation and Policy .06(1) of Exchange Rule 2.5.

[7] *See* Securities Exchange Act Release No. 66383 (February 10, 2012), 77 FR 9714 (February 17, 2012) (SR–EDGX–2012–04) (Notice of Filing and Immediate Effectiveness).

[8] If amended as proposed, Interpretation and Policy .06(1) of Exchange Rule 2.5 would define a proprietary trading firm as a firm that embodies the following characteristics: The Member is not required by Section 15(b)(8) of the Act to become a FINRA member; all funds used or proposed to be used by the Member for trading are the Member's own capital, traded through the Member's own accounts; the Member does not, and will not have ''customers''; and all Principals and Authorized Traders of the Member acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Member.

[9] For Authorized Traders of Members who do not engage solely in proprietary trading, the Exchange requires the General Securities Representative Examination (''Series 7'') or equivalent foreign examination module approved by the Exchange as defined in Interpretation and Policy .05 of Exchange Rule 2.5. *See* Interpretation and Policy .03 of Exchange Rule 2.5.

[10] *See* Interpretation and Policy .04 of Exchange Rule 2.5.

[11] 15 U.S.C. 78o(b)(8).

[12] 15 U.S.C. 78f(g).

proprietary trading firm need only be a current Exchange Member and not required to be a FINRA Member by Section 15(b)(8) of the Act.[13] Therefore, the Exchange proposes to delete this requirement from its rules.

Series 56 Exam and Continuing Education Fees

The Exchange proposes to add to its Fee Schedule a $195 fee per person, per Series 56 examination and a $60 per person, per session fee for the related continuing education. The Exchange's Fee Schedule does not currently set forth the fees applicable for the Series 7 and Regulatory Element as these programs are within FINRA's jurisdiction and collected by FINRA from its members. On the contrary, the Series 56 and its continuing education requirements apply to Members that are not required by Section 15(b)(8) of the Act[14] to become a FINRA member. Therefore, the Exchange proposes to include these fees in its Fee Schedule to make clear to Members the costs of the Series 56 exam and its related continuing education. However, Members would continue to submit the exam fee to FINRA, as well as the fee for continuing education.[15] The Exchange will not invoice or collect these fees.

The fees are designed to reflect the costs incurred in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading.

2. Statutory Basis

Series 56 Continuing Education Requirements

The Exchange believes that its proposal to require continuing education for Authorized Traders of Members that hold the Proprietary Trader—Series 56 license is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(c)(3)(B) of the Act.[17] Under that section, it is the Exchange's responsibility to prescribe standards of training, experience, and competence for Exchange Members and their associated persons, in particular, by offering an alternative continuing education program for Proprietary Traders that more closely reflects the practical knowledge that is a pre-requisite for proprietary trading. Pursuant to this statutory obligation, the Exchange proposes to require Authorized Traders of Members that hold the Series 56 license to complete the related continuing education. The Exchange believes the Series 56 continuing education requirement would enable Authorized Traders of Members to maintain specified levels of competence and knowledge generally applicable to proprietary trading. Thus, the codification of these requirements in the proposed amendments to Rule 2.5 makes clear to Members their requirements related to the Series 56 exam, including applicable continuing education requirements, by codifying such requirements in the Exchange's rules.

In addition, the Exchange believes that the proposed rule change is consistent with the principles of Section 11A(a)(1)(C)(ii) of the Act[18] in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule will promote uniformity of regulation across markets, thus reducing opportunities for regulatory arbitrage.[19] The proposed rule change helps ensure that all persons conducting a securities business through the Exchange are appropriately registered and maintain specified levels of competence, as the Commission expects of all self-regulatory organizations.

Clarification to Interpretation and Policy .06 to Rule 2.5

The Exchange believes that the proposal to delete unnecessary language from Interpretation and Policy .06 to Rule 2.5 is consistent with Section 6(b) of the Act[20] and furthers the objectives of Section 6(b)(5) of the Act,[21] in that it is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by eliminating unnecessary confusion with respect to the Exchange's rules. The Exchange proposes to delete the requirement that the Member must also be a member of another registered securities exchange because it is superfluous.

Series 56 Exam and Continuing Education Fees

The Exchange also believes that the proposed examination and continuing education fees are consistent with the objectives of Section 6 of the Act,[22] in general, and furthers the objectives of Section 6(b)(4),[23] in particular, in that they are designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members. The Series 56 examination and continuing education fees are reasonably designed to allow FINRA to cover its cost of administering the Series 56 exam program on behalf of the Exchange. The fee for the Series 56 exam is greater than the fee for continuing education because the exam fee is also designed to cover the costs associated with developing not just the Series 56 exam, but also the related S501 continuing education program. The S501 continuing education fee is set to only cover the costs of administering the continuing education sessions. The Exchange notes that it will not invoice or collect funds from Members that are subject to these fees because these fees will be paid directly to FINRA. FINRA incurs costs in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading. Therefore, the Exchange believes it is reasonable and equitable to include these fees in its Fee Schedule to make clear to Members the costs of the Series 56 exam and its related continuing education requirement. The Exchange also believes these fees are reasonable because it understands that other exchanges will be assessing identical fees to be collected by FINRA for the Series 56 exam and continuing education program.[24] In addition, the Exchange believes these fees are not

[13] 15 U.S.C. 78o(b)(8).

[14] 15 U.S.C. 78o(b)(8).

[15] The Exchange notes that FINRA has historically collected the $195 Series 56 examination fee on behalf of the Exchange to cover its cost of administering the Series 56 exam program.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(c)(3)(B).

[18] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[19] *See infra* note 24.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f.

[23] 15 U.S.C. 78f(b)(4).

[24] The Exchange participates in the ''Proprietary Traders Examination Committee'' for the Series 56 exam and continuing education requirements with the other exchanges. Through this Committee, the Exchange believes that other exchanges will be submitting proposed rule changes with the Commission to adopt the same fees for the Series 56 exam and continuing education. The exchanges that participate on the Committee include: Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT, LLC; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; Nasdaq OMX BX, Inc.; Nasdaq OMX PHLX, LLC; BATS Y-Exchange, Inc.; BATS Exchange, Inc.; EDGA Exchange, Inc.; and the International Securities Exchange, LLC.

unfairly discriminatory in that they apply to all Members uniformly.

B. Self-Regulatory Organization's Statement on Burden on Competition

Series 56 Continuing Education Requirements

The Exchange does not believe that its proposal to require continuing education for Authorized Traders of Members that hold the Series 56 license will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended, because Proprietary Traders must hold a Series 56 license and complete the required continuing education regardless of the exchange with which they are registered. The proposed rule change will not impose any burden on intramarket competition as all Authorized Traders of Members that are Proprietary Traders are required to pass the Series 56 exam and complete the related continuing education as outlined in Exchange Rule 2.5.

Clarification to Interpretation and Policy .06 to Rule 2.5

The proposal to delete unnecessary language from Interpretation and Policy .06(1) to Rule 2.5 does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This language is superfluous as the Exchange does not, in practice, require a proprietary trading firm to also be a member of another exchange.

Series 56 Exam and Continuing Education Fees

The Exchange also does not believe that the proposed examination and continuing education fees will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that its proposal would neither increase nor decrease intramarket competition because the fees would apply uniformly to all Members. In addition, the Exchange believes that its proposal would neither increase nor decrease intermarket competition because other exchanges will be assessing identical fees to be collected by FINRA for the Series 56 exam and continuing education program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and Rule 19b–4(f)(6) thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay. The proposed rule change specifies the continuing education requirements for Authorized Traders of Members registered solely as proprietary traders by having passed the Series 56 examination; deletes unnecessary language from Interpretation and Policy .06 of Exchange Rule 2.5; and adds to the Exchange's Fee Schedule the fees for the Series 56 examination and the S501. Waiver of the operative delay would allow the Exchange to clarify its rules and implement the proposed rule change without delay once the Series 56 examination fee, S501 continuing education program and the related fee are available in WebCRD, enabling its Members to comply with their examination and continuing education requirements in a timely manner, and thus is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.[26]

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2013–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2013–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2013–31 and should be submitted on or before September 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19909 Filed 8–15–13; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70160; File No. SR–BX–2013–048]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify BX Connectivity Options and Fees

August 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 01, 2013, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify BX connectivity options and fees. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com/*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Rule 7034(b) regarding connectivity to BX. Specifically, the Exchange proposes to establish connectivity and installation fees for a 10Gb Ultra low latency fiber connection option, and provide a waiver of installation fees for subscriptions through August 31, 2013.

The Exchange currently offers various bandwidth options for connectivity to the Exchange, including a 40Gb fiber connection, a 10Gb fiber connection, a 1Gb fiber connection, and a 1Gb copper connection.[3] In keeping with changes in technology, the Exchange now proposes to provide a second 10Gb fiber connection offering, which uses new ultra-low latency switches.[4] A switch is a type of network hardware that acts as the ''gatekeeper'' for all of a co-located client's orders sent to the System [5] at the Exchange's co-location facility and orders them in sequence for entry into the System for execution. Each of BX's current connection offerings uses different switches between the offerings, but the switches are of uniform type within each offering. As a consequence, all co-located client subscribers to a particular connectivity option receive the same latency in terms of the capabilities of their switches. The 10Gb Ultra offering uses a new ultra-low latency switch, which provides faster processing of orders sent to it in comparison to the current switch in use for co-location connectivity. As a consequence, co-located clients needing only 10Gb of bandwidth, but that seek faster processing of those orders as they enter the Exchange's co-location facility now have the option to subscribe to a faster and more efficient connection to the Exchange.[6]

The Exchange proposes a monthly subscription fee of $15,000 for a 10Gb Ultra connection, and a one-time installation fee of $1,500, which is identical to the 40Gb fiber connectivity option. The Exchange believes that the pricing is reflective of the value the option will provide and the hardware and other infrastructure and maintenance costs to the Exchange associated with offering technology that is at the forefront of the industry. The growth in the size of consolidated and proprietary data feeds has resulted in demand for faster processing of message traffic, and ultra-low latency switches meet this demand by decreasing the time individual orders are processed and market data is transmitted by these new switches. The Exchange's proposal provides the co-located client the option for faster switch processing, which is highly valued among some market participants. The Exchange notes that other markets have adopted low-latency connectivity options for their clients. For example, the International Securities Exchange LLC (''ISE'') offers a 10Gb low latency Ethernet connectivity option to its clients, which provides a ''higher speed network to access [ISE's] Optimise trading system.'' [7]

The Exchange also proposes to provide a waiver of the installation fees for client orders of 10Gb Ultra fiber connectivity to the Exchange completed between the effectiveness of this proposal and August 31, 2013. The Exchange is providing the waiver to assist its co-located clients in upgrading to lower latency connections to meet the growing needs of co-located clients' business operations. The Exchange is adding text to the rule that makes it clear that the connectivity option also provides connection to the markets of The NASDAQ Stock Market LLC (''NASDAQ'') and NASDAQ OMX PHLX LLC (''Phlx''). The Exchange is deleting typographical errors in the title and text of the rule that refer to connectivity to NASDAQ and replacing them with references to BX, since it is a BX connectivity option. Last, the Exchange is deleting text under the rule that refers to an installation fee waiver time period for 10Gb and 40Gb fiber connections, which has since expired.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and with Section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [10] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because the fees

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 7034(b).

[4] The term ''Latency'' for these purposes is a measure of the time it takes for an order to enter into a switch and then exit for entry into the System.

[5] As defined by Rule 4751(a).

[6] The Exchange is not offering a low latency option for other bandwidth connections at this time, but may do so in the future.

[7] *See* Securities Exchange Act Release No. 66525 (March 7, 2012), 77 FR 14847 (March 13, 2012) (SR–ISE–2012–09).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

assessed for 10Gb Ultra fiber connectivity fee allow the Exchange to cover the costs associated with the purchase of new, state-of-the-art switches for this new offering. Because the switches are best in breed, they are priced at a premium, the cost of which the Exchange must bear. The Exchange is offering 10Gb Ultra fiber connectivity at the same price as 40Gb fiber connectivity. Both the proposed 10Gb Ultra fiber connectivity and 40Gb fiber connectivity represent the best performance available to co-located clients. 40Gb fiber connectivity provides the greatest bandwidth available on the Exchange, which is important for co-located clients that have high order flow and ingest large amounts of market data and demand the greatest bandwidth possible to handle such message flow. Some co-located clients, however, do not have bandwidth demands that would require 40Gb fiber bandwidth but rather put a premium on reducing latency. The 10Gb Ultra fiber connectivity it designed to meet this demand. As a consequence, both 40Gb and 10Gb Ultra fiber connectivity represent the best connectivity the Exchange offers in terms of bandwidth and latency, respectively.

The Exchange believes that the proposed one-time installation fee is consistent with Section 6(b)(4) of the Act because it is identical to the installation fees assessed for 40Gb fiber connectivity under the rule. The Exchange notes that it will incur the same costs associated with setting up a subscriber with either 40Gb fiber or 10Gb Ultra fiber connectivity. As a consequence, the Exchange believes that it is reasonable to assess the same installation fee as 40Gb fiber. The Exchange also believes that its proposal to waive temporarily the 10Gb Ultra fiber connection installation fee is reasonable because it will assist its co-located clients in upgrading to lower latency connections to meet the growing needs of the co-located clients' business operations at a time in the industry when speed continues to be a driver of the U.S. securities markets. Moreover, the Exchange notes that it has previously waived the installation fees for the 10Gb and 40Gb fiber connections for a limited time after these connectivity options were first introduced.[11]

In addition to covering costs, the proposed fees will allow the Exchange to recoup costs associated with providing the 10Gb Ultra fiber connection and provide the Exchange a profit while providing clients the possibility of reducing the number of their connections to the Exchange. As discussed above, ISE offers different connectivity options with respect to latency and NYSE Arca, Inc. offers what the Exchange believes is a similar connectivity option, yet both options do not provide the breadth of connectivity at the same latency as the Exchange's proposed 10Gb Ultra fiber connectivity option.[12] The Exchange notes that the 10Gb Ultra fiber option provides connectivity to seven of the NASDAQ OMX Group U.S. markets (specifically, the cash equities and options markets operated by NASDAQ, BX, and Phlx, and the NASDAQ OMX Futures Exchange), whereas the offerings of other exchanges provide far fewer.[13] Moreover, as new leading-edge technology, the switches to be used for 10Gb Ultra fiber connectivity have lower latency than the switches currently in use by other markets. For these reasons, the Exchange believes the proposed fees for 10Gb Ultra fiber connectivity to the Exchange are reasonable.

The Exchange also believes the proposed 10Gb Ultra fiber installation and connectivity fees are equitably allocated in that all co-located clients that voluntarily select this service option will be charged the same amount to cover the hardware, installation, testing and connection costs to maintain and manage the enhanced connection. The proposed fees allow the Exchange to recoup costs associated with providing the 10Gb Ultra fiber connection and provide the Exchange a profit while providing clients with the most efficient connection to the System in terms of latency. All co-located clients have the option to select this voluntary co-location connectivity option; however, the Exchange is not eliminating any existing connectivity options. Accordingly, a co-located client may elect not to subscribe to the 10Gb Ultra fiber connectivity option and retain the option to which it is currently subscribed.

The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[14] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers. The 10Gb Ultra fiber connectivity option assists co-located clients in making their network connectivity more efficient by reducing the time orders take to reach the System once sent from their co-located server and also the time that market data takes to reach their co-located server. Speed and efficiency are important drivers of the U.S. securities markets and the Exchange is offering a co-location connectivity solution that promotes these drivers by providing state of the art technology that is available to all co-located clients. The Exchange believes the enhanced 10Gb Ultra connection will remove impediments to and perfect the mechanism of a free and open market and a national market system because the Exchange will provide state of the art switching technology to market participants, which will improve the speed and efficiency of processing orders arriving at the market from clients' co-located servers.

The Exchange also believes that the reduction in latencies attributed to the enhanced 10Gb Ultra connection option serves to protect investors and the public interest. The reduction in latency will provide investors with the most efficient means of processing orders once they reach the Exchange. Higher bandwidth options like the Exchange's current 10Gb and 40Gb fiber connectivity and the proposed 10Gb Ultra fiber option also remove the potential for data spikes and data gapping issues that result from the transmission of the growing size of the consolidated and proprietary market data feeds. Such data spiking and data gapping issues have the potential for disrupting the marketplace which could negatively impact investors as well as the public interest.

The Exchange also believes the proposed installation and subscription fees for the 10Gb Ultra fiber connectivity option are not unfairly discriminatory because all clients have the option to subscribe to co-locate with the Exchange and subscribe to the 10Gb Ultra connection. There is no differentiation among co-located clients

[11] See Securities Exchange Act Release No. 66542 (March 8, 2012), 77 FR 15169 (March 14, 2012) (SR–BX–2012–012).

[12] NYSE Arca charges $10,000 per month for a 10Gb LCN (Liquidity Center Network) Connection. *See https://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_marketplace_fees_1.3.2012.pdf*, page 13. Although similar, the Exchange's 10Gb Ultra connection provides even lower latency connectivity to a larger number of markets, which represents the premium over the NYSE Arca 10Gb LCN connectivity option.

[13] The ISE connectivity offering provides access to one market and the NYSE Arca

connectivity offering provides connectivity to the four markets of NYSE Euronext.

[14] 15 U.S.C. 78f(b)(5).

with regard to the fees charged for these services. The Exchange believes the proposal to waive the 10Gb Ultra fiber connection installation fee is not unfairly discriminatory because the waiver of fees is provided to all co-located clients that volunteer for this particular service option during the prescribed timeframe, and there is no differentiation among co-located clients with regard to the waiver of fees for this option.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the Exchange believes that the changes will promote competition by offering co-located clients an additional connectivity option that will enhance their trading operations and ultimately bring greater speed and efficiency to trading in the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing noting that it operates in a highly competitive market in which colocation services are offered to facilitate trading activities and that this new service provides clients with the option to further enhance their trading immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest so that BX can immediately offer the 10GB Ultra connectivity to those clients that believe it can enhance the efficiency of their trading.[17] Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2013–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2013–048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2013–048 and should be submitted on or before September 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19908 Filed 8–15–13; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Altus Pharmaceuticals, Inc., Blackhawk Capital Group BDC, Inc., Cargo Connection Logistics Holding, Inc., Diapulse Corporation of America, Globus International Resources Corp., Kingston Systems, Inc., and Mega Media Group, Inc.; Order of Suspension of Trading

August 14, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Altus Pharmaceuticals, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Blackhawk Capital Group BDC, Inc. because it has

not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cargo Connection Logistics Holding, Inc. because it has not filed any periodic reports since the period ended December 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Diapulse Corporation of America because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Globus International Resources Corp. because it has not filed any periodic reports since the period ended December 31, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Kingston Systems, Inc. because it has not filed any periodic reports since the period ended December 27, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mega Media Group, Inc. because it has not filed any periodic reports since the period ended July 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 14, 2013, through 11:59 p.m. EDT on August 27, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–20102 Filed 8–14–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

CNC Development, Ltd., Exousia Advanced Materials, Inc., and South American Minerals, Inc.; Order of Suspension of Trading

August 14, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CNC Development, Ltd. because it has not filed any periodic reports since the period ended December 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Exousia Advanced Materials, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of South American Minerals, Inc. because it has not filed any periodic reports since it filed a Form 10–SB/A registration statement on January 19, 2005.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 14, 2013, through 11:59 p.m. EDT on August 27, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–20104 Filed 8–14–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

AIMS Worldwide, Inc., Apollo Capital Group, Inc., CommunitySouth Financial Corp., Last Mile Logistics Group, Inc., Made in America Entertainment, Inc., and Millenia Hope, Inc.; Order of Suspension of Trading

August 14, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AIMS Worldwide, Inc. because it has not filed any periodic reports since the period ended June 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Apollo Capital Group, Inc. because it has not filed any periodic reports since the period ended June 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CommunitySouth Financial Corp. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Last Mile Logistics Group, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Made in America Entertainment, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Millenia Hope, Inc. because it has not filed any periodic reports since the period ended February 29, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 14, 2013, through 11:59 p.m. EDT on August 27, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–20103 Filed 8–14–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Soil Biogenics Ltd., File No. 500–1; Order of Suspension of Trading

August 14, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Soil Biogenics Ltd. because it has not filed

any periodic reports since the period ended December 31, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on August 14, 2013, through 11:59 p.m. EDT on August 27, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–20101 Filed 8–14–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

iVoice, Inc., Protectus Medical Devices, Inc., and St. Lawrence Energy Corp.; Order of Suspension of Trading

August 14, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of iVoice, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Protectus Medical Devices, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of St. Lawrence Energy Corp. because it has not filed any periodic reports since the period ended September 30, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 14, 2013, through 11:59 p.m. EDT on August 27, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–20100 Filed 8–14–13; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8421]

Notice of Information Collection Under Emergency Review: Medical History and Examination for Foreign Service DS–1843 and DS–1622

ACTION: Notice of request for emergency OMB approval.

SUMMARY: The Department of State has submitted the information collection request described below to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. The purpose of this notice is to allow for public comment from all interested individuals and organizations. Emergency review and approval of this collection has been requested from OMB immediately. If granted, the emergency approval is only valid for 180 days.

ADDRESSES: Direct any comments on this emergency request to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB).

You may submit comments to OMB by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

DATES: During the first 60 days of the emergency approval period, a regular review of this information collection is also being undertaken. The Department of State requests written comments and suggestions from the public and affected agencies concerning this proposed collection of information. The Department will accept comments up to *October 15, 2013.*

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Public Notice 8421'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: summerssb@state.gov.*
- *Mail:* U.S. Department of State, Office of Medical Services, Medical Clearance Section, SA–1 Room L–201, 2401 E Street NW., Washington, DC 20522–0101.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Susan B. Summers, Chief of Medical Clearances, SA–15A, who may be reached on 703–875–5413 or *summerssb@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Medical History and Examination for Foreign Service.
- *OMB Control Number:* 1405–0068.
- *Type of Request:* Emergency Review.
- *Originating Office:* M/MED/MC.
- *Form Number:* DS–1843, DS–1622.
- *Respondents:* Foreign Service candidates who have been given provisional offers of employment and other individuals who participate in the Department of State's Medical Program.
- *Estimated Number of Respondents:* 23,245.
- *Estimated Number of Responses:* 23,245.
- *Average Time per Response:* 1 Hour.
- *Total Estimated Burden Time:* 23,245 Hours.
- *Frequency:* Once after conditional offer of employment, and, during the employment of the member of the Foreign Service, at intervals between assignments abroad.
- *Obligation to respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden of this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

Pursuant to the Foreign Service Act of 1980, as amended, the Secretary of State

has the authority to establish a Medical Program, and the information at issue is collected in accordance with 22 U.S.C. 4084, 3901, and 3984. The information collected in Form DS–1843 is needed to determine whether a candidate for a Foreign Service appointment can obtain the medical clearance that is a requirement of the appointment. Additionally, the information collected in Form DS–1843 and Form DS–1622 is used to provide and to update medical clearances for individuals who participate in the Medical Program.

Methodology:

After the individual and his or her health care provider complete the form, it can be faxed or scanned and emailed to *MEDMR@state.gov*.

Dated: August 6, 2013.

Susan B. Summers,

Chief Medical Clearance Section, Office of Medical Services, Department of State.

[FR Doc. 2013–20127 Filed 8–15–13; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF STATE

[Public Notice 8423]

Culturally Significant Objects Imported for Exhibition

Determinations: ''Dena'inaq' Huch'ulyeshi: The Dena'ina Way of Living''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and, as appropriate, Delegation of Authority No. 257 of April 15, 2003, I hereby determine that the objects to be included in the exhibition ''Dena'inaq' Huch'ulyeshi: The Dena'ina Way of Living,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Anchorage Museum, Anchorage, Alaska, from on or about September 15, 2013, until on or about January 12, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 9, 2013.

Lee A. Satterfield,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–20126 Filed 8–15–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8424]

Culturally Significant Objects Imported for Exhibition Determinations: ''Chagall: Love, War, and Exile''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Chagall: Love, War, and Exile,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Jewish Museum, New York, NY, from on or about September 15, 2013, until on or about February 2, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 9, 2013.

Lee Satterfield,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–20125 Filed 8–15–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8422]

Culturally Significant Objects Imported for Exhibition Determination: ''Heaven and Earth: Art of Byzantium From Greek Collections''

AGENCY: Department of State.

ACTION: Notice; correction.

SUMMARY: On August 7, 2013, notice was published on page 48216 of the **Federal Register** (volume 78, number 152) of the determinations made by the Department of State pertaining to the exhibition ''Heaven and Earth: Art of Byzantium from Greek Collections.'' The referenced notice is corrected here to include an additional venue for the exhibition. Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and, as appropriate, Delegation of Authority No. 257 of April 15, 2003, I hereby determine that the exhibition or display of the objects to be included in the exhibition ''Heaven and Earth: Art of Byzantium from Greek Collections,'' at the Art Institute of Chicago, Chicago, Illinois, from on or about October 5, 2014, until on or about March 1, 2015, is in the national interest. I have ordered that Public Notice of this Determination be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 9, 2013.

Lee A. Satterfield,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–20124 Filed 8–15–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending July 27, 2013. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2013–0145.

Date Filed: July 24, 2013.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: August 14, 2013.

Description: Application of Comlux Aruba N.V. (''Comlux Aruba'') requesting a foreign air carrier permit and an exemption authorizing Comlux Aruba to conduct the following services: (a) Foreign charter air transportation of persons, property, and mail between any point or points in Aruba and any point or points in the United States, and between any point or points in the United States and any point or points in any third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without change of aircraft, that includes service to Aruba for purpose of carrying local traffic between Aruba and the United States; (b) and other charters pursuant to the prior approval requirements set forth in the Department's regulations governing charters.

Barbara J. Hairston,

Acting Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–20010 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending August 3, 2013. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2013–0148.

Date Filed: July 30, 2013.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: August 20, 2013.

Description: Application of Cargo Three, Inc. d/b/a PanAir requesting a foreign air carrier permit to operate charter air transportation of property between any point or points in the Republic of Panama and any point or points in the United States; and between any point or points in the United States and any point or points in a third country or countries, whether or not it constitutes part of a continuous operation that includes service to Panama. PanAir Cargo further requests exemption authority to the extent necessary to enable it to provide the services described above pending issuance of a foreign air carrier permit and such additional or other relief as the Department may deem necessary or appropriate.

Barbara J. Hairston,

Acting Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–20012 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on September 19, 2013, starting at 1:00 p.m. Eastern Standard Time. Arrange oral presentations by September 12, 2013.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 10th floor, MacCracken Room.

FOR FURTHER INFORMATION CONTACT: Renee Butner, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–5093; fax (202) 267–5075; email *Renee.Butner@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on September 19, 2013, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. The Agenda includes:

1. Recommendation Report
   a. Airman Testing Standards and Training Working Group (ARAC)
2. Status Reports From Active Working Groups
   a. AC 120–17A Maintenance Control by Reliability Methods (ARAC)
   b. Flight Controls Harmonization Working Group (Transport Airplane and Engine Subcommittee [TAE])
   c. Airworthiness Assurance Working Group (TAE)
   d. Engine Harmonization Working Group (TAE)
   e. Flight Test Harmonization Working Group (TAE)
3. New Tasks
   a. Engine Endurance Testing Requirements—Revision of Section

33.87

4. Status Report from the FAA

a. Rulemaking Prioritization

i. Potential future taskings to ARAC

Attendance is open to the interested public but limited to the space available. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than September 12, 2013. Please provide the following information: full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by September 12, 2013 to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on August 13, 2013.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2013–19932 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0284]

Commercial Driver's License Standards: Application for Exemption; Miami Nice Tours

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Miami Nice Tours (Miami) has applied for an exemption from the commercial driver's license (CDL) provisions of part 383 of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 350–399) for itself and 50 European drivers. Miami, a motor carrier, would employ the 50 European drivers to conduct approximately 87 motorcoach tours in the United States annually. Part 383 requires motorcoach drivers to hold a CDL issued by a U.S. State. While each driver is licensed to operate a motorcoach in his or her European country of residence, States do not issue CDLs to non-residents. Miami believes that these drivers are likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained if they held U.S. CDLs.

DATES: Comments must be received on or before September 16, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2013–0284 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.
- *Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *www.regulations.gov*, including any personal information provided. Please see the *Privacy Act* heading below.
- *Docket:* For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time and in the box labeled ''SEARCH for'' enter FMCSA–2013–0284 and click on the tab labeled ''SEARCH.''
- *Privacy Act:* Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).
- *Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines by clicking on the word ''Help'' at the top of the Portal home page. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31315 and 31136(e) to grant exemptions from certain parts of the FMCSRs. The Agency is required to publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. FMCSA must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

FMCSA reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** with the reasons for denying or granting the application, and if granted, the name of the person or class of persons receiving the exemption and the regulatory provisions from which the exemption is granted [49 CFR 381.315(b) and (c)]. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed [49 CFR 381.300(b)].

Request for Exemption

Miami Nice Tours (Miami) is a motor carrier based in Florida and duly registered with FMCSA to transport passengers in interstate commerce. It has applied for an exemption from the

CDL provisions of part 383 of the FMCSRs for itself and 50 European drivers. It wishes to employ the foreign drivers to conduct approximately 87 motorcoach tours in the United States. Miami states that these drivers ''have a long-term relationship with the passengers; the passengers simply would not book the tour without [these drivers] accompanying them. . . . .'' A copy of the application for exemption is in the docket listed at the beginning of this notice.

Part 383 requires motorcoach drivers to hold a CDL. The foreign drivers do not hold CDLs issued by a U.S. State, but they are licensed to operate motorcoaches in their respective country of residence (Germany, Austria, or Switzerland). Miami seeks the exemption because the foreign drivers cannot satisfy the residency requirement that all States require of applicants for a CDL. Miami states that an exemption is appropriate because Miami asserts that these drivers are likely to achieve a level of safety operating motorcoaches in the U.S. that is equivalent to or greater than the level of safety that would be obtained if they held U.S. CDLs.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Miami's application for an exemption from the CDL requirements of 49 CFR 383.23. The Agency will consider all comments received by close of business on September 16, 2013. Comments will be available for examination in the docket as explained in the **ADDRESSES** section of this notice under the term ''Docket.''

Issued on: August 9, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–20011 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2013–0019]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 24 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective August 16, 2013. The exemptions expire on August 16, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On May 31, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 24 individuals and requested comments from the public (78 FR 32704). The public comment period closed on July 1, 2013, and one comment was received.

FMCSA has evaluated the eligibility of the 24 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 24 applicants have had ITDM over a range of 1 to 38 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the May 31, 2013, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

The Pennsylvania Department of Transportation is in favor of granting an exemption to Kyle P. Cerra, Jeffrey S. Hubbell, and Thomas R. Yecker after reviewing their driving histories.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 24 exemption applications, FMCSA exempts Herlen D. Barner (TN), Paul D. Blakeslee (AK), James W. Bledsoe (AL), Bryant M. Bosler (IL), Daniel L. Bosley (KY), Richard J. Buckman (MA), Fred S. Carpenter (NJ), Verland G. Casper (WI), Kyle P. Cerra (PA), David M. Galler (MO), Raymond K. Harper (KS), Shane B. Henninger (IA), Ronald A. Hersch (NJ), Lucius L. Holmes, Jr. (VA), Jeffrey S. Hubbell (PA), Jason L. Jarman (OK), Kevin T. Johnson (SD), Randall L. Krider (IN), Jose R. Monroy (IL), Eric J. Mullins (VA), William S. Panoch (WI), James E. Smith (TN), Kevin R. Treichel (IA), and Thomas R. Yecker (PA) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: August 8, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–20014 Filed 8–15–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35753]

Illinois Central Railroad Company—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF), pursuant to a written trackage rights agreement dated June 17, 2013, has agreed to grant overhead trackage rights to Illinois Central Railroad Company (IC), a wholly owned, indirect subsidiary of Canadian National Railway Company, over BNSF's Thayer South Subdivision, between milepost 483.8 at CN Junction and milepost 485.8 at KC Junction in Memphis, Shelby County, Tenn., a distance of approximately 2.0 miles.[1]

The transaction is scheduled to be consummated on or after August 30, 2013, the effective date of the exemption (30 days after the exemption was filed).

The purpose of the transaction is to permit IC to interchange loaded and empty cars with the Norfolk Southern Railroad Company (NS) at NS's Forrest Yard.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980). This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by August 23, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35753, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: August 13, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–19937 Filed 8–15–13; 8:45 am]

BILLING CODE 4915–01–P

[1] A redacted trackage rights agreement between IC and BNSF was filed with the notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Treatment of Disregarded Entities Under IRC section 752.

DATES: Written comments should be received on or before October 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Treatment of Disregarded Entities Under Section 752.

OMB Number: 1545–1905.

Regulation Project Number: TD 9289.

Abstract: Generally, the regulation recognizes that only the assets of a disregarded entity that limits its member's liability are available to satisfy creditors' claims under local law. The regulation provides rules under section 752 for taking into account the net value of a disregarded entity owned by a partner or related person for purposes of allocating partnership liabilities. Specifically, it provides that in determining the extent to which a partner bears the economic risk of loss for a partnership liability, payment obligations of a disregarded entity are taken into account only to the extent of the net value of the disregarded entity.

Current Actions: There are no changes to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households and not-for-profit institutions.

Estimated Number of Respondents: 1,500.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 3,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 18, 2013.

Allan M. Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–19983 Filed 8–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Treatment of Gain From Disposition of Certain Natural Resource Recapture Property.

DATES: Written comments should be received on or before October 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Treatment of Gain From Disposition of Certain Natural Resource Recapture Property.

OMB Number: 1545–1352. *Regulation Project Number:* TD 8586.

Abstract: This regulation prescribes rules for determining the tax treatment of gain from the disposition of natural resource recapture property in accordance with Internal Revenue Code section 1254. Gain is treated as ordinary income in an amount equal to the intangible drilling and development costs and depletion deductions taken with respect to the property. The information that taxpayers are required to retain will be used by the IRS to determine whether a taxpayer has properly characterized gain on the disposition of section 1254 property.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 18, 2013.

Allan M. Hopkins,

Tax Analyst.

[FR Doc. 2013–19982 Filed 8–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Announcement 2004–38

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Announcement 2004–38 (as modified by Notice 2006–105), Election of Alternative Deficit Reduction Contribution.

DATES: Written comments should be received on or before October 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the announcement should be directed to Allan Hopkins, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election of Alternative Deficit Reduction Contribution.

OMB Number: 1545–1883.

Announcement Number: Announcement 2004–38.

Abstract: Announcement 2004–38 describes the election that must be made in order for certain employers to take advantage of the alternative deficit reduction contribution described in section 102 of H.R. 3108. Announcement 2004–38 was modified by Notice 2006–105 (2006–50 I.R.B. 1093), on December 11, 2006.

Current Actions: There are no changes being made to the announcement at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 13, 2013.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2013–19984 Filed 8–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0219]

Agency Information Collection (Application for CHAMPVA Benefits) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 16, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0219'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0219.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Application for CHAMPVA Benefits, VA Form 10–10d.

b. CHAMPVA Claim Form, VA Form 10–7959a.

c. CHAMPVA Other Health Insurance (OHI) Certification, VA Form 10–7959c.

d. CHAMPVA Potential Liability Claim, VA Form 10–7959d.

e. Claim for Miscellaneous Expenses, VA Form 10–7959e.

OMB Control Number: 2900–0219.

Type of Review: Revision of a currently approved collection.

Abstracts:

a. VA Form 10–10d is used to determine eligibility of persons applying for healthcare benefits under the CHAMPVA program.

b. VA Form 10–7959a is used to adjudicate claims for CHAMPVA benefits in accordance with 30 U.S.C. 501 and 1781, and 10 U.S.C. 1079 and 1086.

c. VA Form 10–7959c is used to systematically obtain other health insurance information and to correctly coordinate benefits among all liable parties.

d. VA Form 10–7959d form provides basic information from which potential liability can be assessed.

e. Beneficiaries complete VA Form 10–7959e to carry out health care programs for certain children of Korea and/or Vietnam Veterans authorized under 38, U.S.C., chapter 18, as amended by section 401, Public Law 106–419 and section 102, Public Law 108–183.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 10–10d—5,294 hours.
b. VA Form 10–7959a—22,402 hours.
c. VA Form 10–7959c—6,728 hours.
d. VA Form 10–7959d—467 hours.
e. VA Form 10–7959e—1500 hours.

Estimated Average Burden Per Respondent:

a. VA Form 10–10d—12 minutes.
b. VA Form 10–7959a—6 minutes.
c. VA Form 10–7959c—5 minutes.
d. VA Form 10–7959d—7 minutes.
e. VA Form 10–7959e—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 10–10d—26,468.
b. VA Form 10–7959a—224,018.
c. VA Form 10–7959c—80,733.
d. VA Form 10–7959d—4,000.
e. VA Form 10–7959e—3,000.

Dated: August 13, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–19914 Filed 8–15–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the subcommittees of the Rehabilitation Research and Development Service Scientific Merit Review Board will meet from 8 a.m. to 5 p.m. on the dates indicated below:

Subcommittee	Date(s)	Location
Career Development Award Program	August 6, 2013	VHA National Conference Center.
Musculoskeletal/Orthopedic Rehabilitation	August 6–7, 2013	VHA National Conference Center.
Psychological Health and Social Reintegration	August 6–7, 2013	VHA National Conference Center.
Regenerative Medicine	August 7, 2013	Department of Education.
Sensory Systems/Communication	August 7, 2013	VHA National Conference Center.
Aging and Neurodegenerative Disease	August 8, 2013	VHA National Conference Center.
Career Development Award Program	August 8, 2013	VHA National Conference Center.
Spinal Cord Injury	August 8, 2013	* VA Central Office.
Research Career Scientists	August 10, 2013	* VA Central Office.
Rehabilitation Engineering and Prosthetics/Orthotics	August 13, 2013	Department of Education.
Brain Injury: TBI and Stroke	August 14–15, 2013	Department of Education.

The addresses of the meeting sites are:

Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.

VA Central Office, 131 M Street NE., Washington, DC 20002.

(* Teleconference)

VHA National Conference Center, 2011 Crystal Drive, Arlington, VA 22202.

The purpose of the Board is to review rehabilitation research and development applications and advise the Director, Rehabilitation Research and Development Service, and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human and animal subjects.

The subcommittee meetings will be open to the public for approximately one-half hour at the start of each meeting to cover administrative matters and to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed to the public for the discussion, examination, reference to, and oral review of the research applications and critiques. During the closed potion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral comments will be accepted from the public for either portion of the meetings. Those who plan to attend the open portion of a subcommittee meeting should contact Tiffany Asqueri, Designated Federal Officer, Rehabilitation Research and Development Service, at Department of Veterans Affairs (10P9R), 810 Vermont Avenue NW., Washington, DC 20420, or email *tiffany.asqueri@va.gov.* Written comments may be submitted to Ms. Benton-Grover at the same address and email. For further information, please call Mrs. Asqueri at (202) 443–5757.

Dated: August 12, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–19912 Filed 8–15–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service, Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Health Services Research and Development Service (HSR&D) Scientific Merit Review Board will conduct in-person and teleconference meetings of its seven Health Services Research (HSR) subcommittees from 8:00 a.m. to approximately 5:00 p.m. on the dates and at the locations indicated below:

• HSR 1—Medical Care and Clinical Management; Health Professional Behavior on August 27–28, 2013, at the National Naval Medical Center, Bethesda, Maryland;

• HSR 2—Patient and Special Population Determinants of Health and Care on August 27–28, 2013, at the Veterans Health Administration (VHA) National Conference Center, Arlington, Virginia;

• HSR 3—Healthcare Informatics on Tuesday, August 27, 2013, at the Paralyzed Veterans of America, Washington, DC;

• HSR 4—Mental and Behavioral Health on August 27–28, 2013, at the Paralyzed Veterans of America, Washington, DC;

• HSR 5—Health Care System Organization and Delivery; Research Methods and Models on August 27–28, 2013, at the VHA National Conference Center, Arlington, Virginia;

• HSR 6—Post-acute and Long-term Care on Wednesday, August 28, 2013, at the Paralyzed Veterans of America, Washington, DC;

• HSR 7—Aging and Diminished Capacity in the Context of Aging on Tuesday, August 27, 2013, at the Disabled American Veterans, Washington, DC; and

• Nursing Research Initiative (NRI) from 8:00 a.m. to 12:00 p.m. on Thursday, August 29, 2013, at the National Naval Medical Center, Bethesda, Maryland.

The purpose of the Board is to review HSR&D applications involving the measurement and evaluation of health care services, the testing of new methods of health care delivery and management, and nursing research. Applications are reviewed for scientific and technical merit, mission relevance, and the protection of human and animal subjects. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

Each subcommittee meeting of the Board will be open to the public for approximately one half-hour at the start of the meetings' first day on August 27 (HSR 1, 2, 3, 4, 5 and 7), August 28 (HSR 6), and August 29 (NRI). This time will be used to cover administrative matters and to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed for discussion, examination, reference to, and oral review of the intramural research proposals and critiques. During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral comments will be accepted from the public for either portion of the meetings. Those who plan to attend the open portion of a subcommittee meeting should contact Kristy Benton-Grover, Designated Federal Officer and Program Manager, Scientific Merit Review Board, Department of Veterans Affairs, Health Services Research and Development Service (10P9H), 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Kristy.benton-grover@va.gov.* Written comments may be submitted to Mrs. Benton-Grover at the same address and email. For further information, please call Mrs. Benton-Grover at (202) 443–5728.

By Direction of the Secretary.

Dated: August 12, 2013.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–19913 Filed 8–15–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Advisory Committee on Women Veterans will conduct a site visit on August 19–23, 2013, at the Atlanta VA Medical Center (VAMC), 1670 Clairmont Road, Decatur, Georgia, from 8:30 a.m. each day and will adjourn at 4 p.m. on August 19–22 and at noon on August 23. Meetings are open to the public except when the Committee is off site for VA facility tours. Briefings will take place at the Atlanta VAMC and other local VA facilities. The site visit will include several closed sessions, to protect patient privacy during tours of medical facilities. Closing portions of the sessions are in accordance with 5 U.S.C. 552b(c)(6).

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

On August 19, the Committee will convene an open session at the in the Pete Wheeler Auditorium, Room GA104 at the Atlanta VAMC. The agenda will include overview briefings from the Atlanta VA Medical Center leadership and the VA Southeast Network (Veterans Integrated Service Network 7) facilities, programs, demographics and women Veterans programs.

On August 20, the Committee will convene an open session at the in the Bobbie Vance Classroom, Room 3A–197 at the Atlanta VAMC. The Committee will receive briefings from Atlanta VAMC program offices on the Million Veteran Program, the Women Veterans Health Committee, the Women's Health Collaborative Workgroup, trauma recovery, domiciliary care, mental health, and military sexual trauma treatment. The Committee will also visit the Center of Excellence at the East Point Community Based Outpatient Clinic at 1513 Cleveland Avenue, East Point, Georgia, and receive briefings on the residential women Veterans program at Mary Hall Freedom House, patient aligned care teams, and the Women's Health Center of Excellence.

On August 21, the Committee will convene an open session at the in the Pete Wheeler Auditorium, Room GA104 at the Atlanta VAMC. Briefings will cover the Atlanta VAMC's homeless Veterans program, post-deployment health reintegration, caregivers support, and tele-health. In the afternoon, the Committee will convene a closed session as the Committee tours the Atlanta VAMC.

In the morning of August 22, the Committee will convene a closed session as they tour the Trinka Davis Veterans Village, in Carrollton, Georgia and the Marietta Vet Center in Marietta, Georgia. In the afternoon, the Committee will reconvene an open session in the Director's Conference Room at the Atlanta Regional Office (RO), at 1700 Clairmont Road, Decatur, Georgia, to receive briefings on RO business lines and services for women Veterans. A briefing from local Memorial Affairs leadership will also be presented.

On August 23, the Committee will convene an open session at the Courtyard by Marriott Atlanta Decatur Downtown/Emory, 130 Clairemont Avenue, Decatur, Georgia, with Atlanta VAMC leadership, and conduct a town hall meeting with the women Veterans community and other stakeholders. The town hall meeting will begin at 10 a.m.

With the exception of the town hall meeting, there will be no time for public comment during the meeting. Members of the public may submit written statements for the Committee's review to *00W@mail.va.gov,* or by fax at (202) 273–7092. Any member of the public wishing to attend or seeking additional information should contact Shannon L. Middleton at (202) 461–6193.

Dated: August 12, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–19911 Filed 8–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974: Computer Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Computer Match Program.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a computer matching program with the Internal Revenue Service (IRS). Data from the proposed match will be used to verify the unearned income of nonservice-connected veterans, and those veterans who are zero percent service-connected (noncompensable), whose eligibility for VA medical care is based on their inability to defray the cost of medical care. These veterans supply household income information that includes their spouses and dependents at the time of application for VA health care benefits.

DATES: *Effective Date:* The effective (start) date of the matching agreement is the expiration of the 30-day **Federal Register** public comment period, unless comments dictate otherwise.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Floretta W. Hardmon, Acting Director, Veterans Health Administration Chief Business Office, Member Services, Health Eligibility Center, (404) 848–5300. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs has statutory authorization under 38 U.S.C. 5317, 38 U.S.C. 5106, 26 U.S.C. 6103(l)(7)(D)(viii) and 5 U.S.C. 552a to establish matching agreements and request and use income information from other agencies for purposes of verification of income for determining eligibility for benefits. 38 U.S.C. 1710(a)(2)(G), 1710(a)(3), and 1710(b) identify those veterans whose basic eligibility for medical care benefits is dependent upon their financial status. Eligibility for nonservice-connected and zero percent noncompensable service-connected veterans is determined based on the veteran's inability to defray the expenses for necessary care as defined in 38 U.S.C. 1722. This determination can affect their responsibility to participate in the cost of their care through copayments and their assignment to an enrollment priority group. The goal of this match is to obtain IRS unearned income information data needed for the income verification process. VA records involved in the match are ''Enrollment and Eligibility Records—VA'' (147VA16). IRS will extract return information with respect to unearned income from the Information Return Master File (IRMF) Process File, Treas/IRS 22.061, through the Disclosure of Information to Federal, State, and Local Agencies (DIFSLA) program. A copy of this notice has been sent to both houses of Congress and OMB.

This matching agreement expires 18 months after its effective date. This match will not continue past the legislative authorized date to obtain this information.

Approved: July 31, 2013.

Jose D. Riojas,

Interim Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2013–20003 Filed 8–15–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 78 Friday,
No. 159 August 16, 2013

Part II

Department of Homeland Security

Coast Guard

46 CFR Parts 30, 150 and 153
2012 Liquid Chemical Categorization Updates; Interim Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 30, 150, and 153

[Docket No. USCG–2013–0423]

RIN 1625–AB94

2012 Liquid Chemical Categorization Updates

AGENCY: Coast Guard, DHS.

ACTION: Interim rule.

SUMMARY: The Coast Guard is updating and revising regulatory tables that list liquid hazardous materials, liquefied gases, and compressed gases that have been approved for maritime transportation in bulk, and that indicate how each substance's pollution potential has been categorized. The interim rule provides new information about approved substances and their categorizations, but would not make any changes in which substances are approved or how each substance is categorized. Updated information is of value to shippers and to the owners and operators of U.S.-flag tank and bulk cargo vessels in any waters and most foreign-flag tank and oceangoing bulk cargo vessels in U.S. waters. This interim rule promotes the Coast Guard's maritime safety and stewardship missions.

DATES: This interim rule is effective September 16, 2013. Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before November 14, 2013 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0423 using any one of the following methods:

(1) *Federal eRulemaking Portal*: *http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, email or call LCDR Marie Castillo-Bletso, Coast Guard; email: *Marie.M.Castillo-Bletso@uscg.mil,* telephone: 202–372–1023. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0423), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2013–0423'' in the ''Search'' box. Click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this interim rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert ''USCG–2013–0423'' in the ''Search'' box. Click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

II. Abbreviations

APA Administrative Procedure Act
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
IBC Code International Code for the Construction and Equipment of Ships CarryingDangerous Chemicals in Bulk
IMO International Maritime Organization

MARPOL International Convention for the Prevention of Pollution from Ships, 1973
MEPC Marine Environment Protection Committee
NLS Noxious liquid substance
OMB Office of Management and Budget
SOLAS International Convention for the Safety of Life at Sea
U.S.C. United States Code

III. Basis and Purpose

The basis of this interim rule is 46 U.S.C. 3703, which requires the Secretary of the department in which the Coast Guard is operating to prescribe regulations relating to the operation of vessels that carry liquid bulk dangerous cargoes, and to the types and grades of cargo those vessels carry. Additional regulatory authority is provided by 33 U.S.C. 1903 (regulations to implement the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL)), 46 U.S.C. 2103 (merchant marine regulatory authority), and 46 U.S.C. 3306 (regulations for the safety of individuals and property on inspected vessels). The Secretary's authority under these statutes is delegated to the Coast Guard in Department of Homeland Security Delegation No. 0170.1 (77) and (92).

The purpose of the interim rule is to update and revise regulatory tables that list liquid hazardous materials, liquefied gases, and compressed gases that have been approved for maritime transportation in bulk, and that indicate how each substance's pollution potential has been categorized.

The Administrative Procedure Act, 5 U.S.C. 551 *et seq.,* generally requires agencies to give prior public notice before issuing new rules and to give interested persons an opportunity to participate in the rulemaking by submitting comments or additional information. We are issuing this interim rule without prior notice and comment under the exceptions to the general requirement contained in 5 U.S.C. 553(b)(B) and (d). Section 553(b)(B) provides an exception from prior notice and comment when an agency finds, for good cause, that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' We find that it is unnecessary and contrary to the public interest to give prior notice and comment for this interim rule, because this interim rule simply updates and revises tables that list the names and pollution-potential categorizations of liquid chemical substances that have already been categorized and approved for maritime transportation in bulk. It makes no new decisions about whether any specific chemical substance should be approved for bulk maritime transportation, about how any specific substance should be categorized, or about carriage requirements that should apply to any specific substance. It simply updates and revises regulatory tables to list liquid hazardous materials, liquefied gases, and compressed gases that currently are approved for maritime transportation in bulk, and indicates how each substance's pollution potential currently is categorized under international agreements to which the United States is a party. Neither existing approvals nor existing categorizations can be changed as a result of taking public comment on this rulemaking.

Additionally, delaying the regulatory update to allow for notice and comment is contrary to the public interest because it delays the public's ready access to categorization information without which it is impossible to know which regulations apply to any specific substance.

IV. Background

Coast Guard regulations in 46 CFR subchapter O (parts 150 through 155) list hundreds of hazardous liquids, liquefied gases, and compressed gases that the Coast Guard has approved for bulk transportation by vessels. Subchapter O specifies requirements for safely transporting these substances.

If a substance is not already listed in subchapter O, a vessel owner or operator must request the Coast Guard's written permission to transport the substance. 46 CFR 150.140, 151.01–15, 153.900. If the owner or operator plans to ship the substance internationally, an additional procedure is necessary to satisfy the requirements of international treaties to which the United States is a party. Specifically, a ''tripartite agreement'' must be concluded between the owner or operator, the Coast Guard, and the flag administration of the country to which the substance will be shipped. The tripartite agreement categorizes the substance's potential for pollution and sets its minimum safe carriage requirements in accordance with the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code), which contains international standards for the safe maritime bulk transportation of dangerous and noxious liquid chemicals in accordance with MARPOL and the International Convention for the Safety of Life at Sea (SOLAS). A copy of the tripartite agreement is forwarded to the International Maritime Organization's (IMO's) Marine Environment Protection Committee (MEPC).

While this substance-specific approval procedure facilitates the commercial development and use of new substances and ensures the safety of a new substance's maritime transportation, public awareness of the new substance and its applicable safety requirements is maximized only by listing it in subchapter O, and in similar regulatory lists maintained by other countries. The IMO facilitates this public awareness. After each tripartite agreement is forwarded to the MEPC, the MEPC reviews the information the agreement contains, and either modifies or validates the information. Each December, the MEPC releases a circular listing the new substances for which it has completed this review. The circular lists the countries that have approved international maritime transportation of the substance, and provides information about the substance's pollution categorization and minimum transportation safety requirements. Thus, if the United States has approved a substance for bulk maritime transportation, eventually it will be listed in the MEPC circular.

Periodically, the IBC Code is revised, and substances listed in MEPC annual circulars since the last IBC Code revision are incorporated into the IBC Code. The IBC Code was last comprehensively revised in 2007, at which time the pollution categories for approved substances were changed from an A–B–C–D categorization scheme (with A representing the most severe pollution hazards and B, C, and D representing decreasing levels of risk) to an X–Y–Z–OS scheme (with X, Y, and Z representing decreasing hazard levels and OS representing ''other substances'' that present no significant pollution hazards). In March 2012, an Annex to the 2007 IBC Code appeared, listing additional substances with their pollution categorizations. The 2007 IBC Code and March 2012 Annex were most recently updated by the December 2012 MEPC Circular.

V. Discussion of the Interim Rule

This interim rule is up to date as of the December 2012 MEPC Circular. It updates and revises subchapter O tables listing liquid chemical substances that the Coast Guard has approved for bulk maritime transportation, which have not been updated in several years. As a result, vessel owners and operators have lacked current and comprehensive lists of approved substances. Moreover, the current subchapter O tables use the outmoded A–B–C–D pollution categories and do not convey information about the X, Y, Z, and OS categories in international use since the IBC Code's 2007 revision. By updating the lists and revising their pollution

categorizations to match the 2007 IBC Code, this interim rule provides the regulated community with more current information, thereby achieving a modest reduction in regulatory burden. Our plan is to keep the table updated through annual rulemakings in the future.

The subchapter O tables amended by this interim rule are Table 30.25–1 (List of Flammable and Combustible Bulk Liquid Cargoes), Table I to Part 150 (Alphabetical List of Cargoes), Table II to Part 150 (Grouping of Cargoes), Appendix I to Part 150 (Exceptions to the Chart), and Table 2 to Part 153 (Cargoes Not Regulated Under Subchapters D or O of this Chapter When Carried in Bulk on Non-oceangoing Barges). We are amending each of these tables to update the lists through December 2012 and to revise pollution categorizations. Also, we are revising the 46 CFR 30.25–1 regulatory text that serves as the introduction to Table 30.25–1 to explain the pollution categorizations included in that table.

VI. Regulatory Analyses

A. Regulatory Planning and Review

Executive Orders (E.O.s) 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This interim rule has not been designated a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, the interim rule has not been reviewed by the Office of Management and Budget. A draft regulatory assessment is included herein.

Affected Population

This interim rule updates tables that list the names and pollution-potential categorizations of liquid chemical substances that have already been categorized and approved for maritime transportation in bulk, either permanently or on a provisional basis. This interim rule makes no new decisions about whether any specific chemical substance should be approved for bulk maritime transportation, about how any specific substance should be categorized, or about carriage requirements that should apply to any specific substance. It simply provides updated information about the substances that are currently approved and how they are currently categorized. As such, this interim rule does not directly affect any particular vessel population. However, this interim rule indirectly applies to the following vessel populations carrying these cargoes from 46 CFR parts 30, 150, 151, 153, and 154 as described:

- Part 30: U.S-flag tank vessels, as further specified in 46 CFR 30.01–5.
- Part 150: U.S.-flag and foreign-flag tank (when in U.S. waters; except foreign-flag tank vessels in innocent passage through U.S. waters) vessels, with exceptions described in 46 U.S.C. 3702.
- Part 151: Non-self-propelled bulk-cargo carrying oceangoing/non-oceangoing U.S.-flag and oceangoing foreign-flag (when in U.S. waters) vessels, as further specified in 46 CFR 151.01–1.
- Part 153: Self-propelled bulk cargo carrying oceangoing/non-oceangoing U.S.-flag and oceangoing foreign-flag (when in U.S. waters) vessels, as further specified in 46 CFR 153.1.
- Part 154: U.S.-flag and foreign-flag (when in U.S. waters) vessels with bulk liquefied gas cargo/cargo residue or vapor, as further specified in 46 CFR 154.5.

Costs

This interim rule updates tables that list the names and pollution-potential categorizations of liquid chemical substances that have already been categorized and approved by the United States and the IMO for maritime transportation in bulk, either permanently or on a provisional basis. Since this interim rule simply updates tables and a table preface to reflect decisions already made under international law about which liquid chemical substances are approved for bulk maritime transportation, and about how those substances should be categorized with respect to their pollution potential, it does not change established shipping requirements and there are no private sector costs expected from this interim rule. This interim rule incorporates chemical substances and categorizations listed by the IMO through its December 2012 MEPC Circular.

Benefits

The primary benefit of this interim rule is to conform regulatory language to practices currently allowed by the Coast Guard through either individual letters of approval or the IBC Code as discussed above, which we expect will result in the benefit of improved service to the public through improved clarity and transparency.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA), we have considered whether this interim rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. We recognize that an Initial Regulatory Flexibility Analysis is not required when an interim rule is promglated without prior notice and comment. Although no impacts on small entities are anticipated, Coast Guard included a threshold analysis of the Interim Rule requirements in order to follow the spirit of the Regulatory Flexibility Act. As this rule does not impose any additional direct costs on small entities as defined by the RFA, this rule is not expected to have a significant economic impact on a substancial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Marie Castillo-Bletso, at *Marie.M.Castillo-Bletso@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this interim rule or any policy or action of the Coast Guard.

D. Collection of Information

This interim rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This interim rule simply updates and revises tables that list substances that have been approved and categorized for bulk maritime transportation, which does not involve information collection.

E. Federalism

A rule has implications for federalism under E.O. 13132 (''Federalism'') if it has a substantial direct effect on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this interim rule under that E.O. and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in the E.O. Our analysis follows.

It is well-settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well-settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within fields foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This interim rule amends existing regulations for tank vessels and the maritime transportation of certain bulk dangerous cargoes, which, under the principles discussed in *Locke,* fall within the categories enumerated in 46 U.S.C. 3306 and 3703 and are within fields in which the states are foreclosed from regulating. Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This interim rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This interim rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 (''Civil Justice Reform'') to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this interim rule under E.O. 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This interim rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This interim rule does not have tribal implications under E.O. 13175 (''Consultation and Coordination with Indian Tribal Governments'') because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this interim rule under E.O. 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that E.O. because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This interim rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this interim rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This interim rule involves administrative updates of existing chemical transport regulations and updates provisions relating to the chemical properties of liquid chemical substances approved for maritime transportation in bulk. The update incorporates changes in how approved substances are categorized by their chemical properties. This interim rule promotes the Coast Guard's maritime safety and stewardship missions. It is therefore included in the Coast Guard's Commandant Instruction (COMDTINST) M16475.1D, Figure 2–1, which includes categorical exclusions (CEs) under categories (34)(a), ''regulations which are editorial or procedural, such as those updating addresses or establishing application procedures,'' and 34 (d), ''regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels,'' as well as in the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy'' (see 67 FR 48243) under paragraph 6 (a), ''regulations concerning vessel operation safety standards . . . equipment approval, and/or equipment carriage requirements . . . and visual distress signals.'' We seek any comments or information that may lead to the discovery of a significant environmental impact from this interim rule.

List of Subjects

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 150

Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 30, 150, 151, and 153 as follows:

PART 30—GENERAL PROVISIONS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; Department of Homeland Security Delegation No. 0170.1; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–05 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

■ 2. Revise § 30.25–1 to read as follows:

§ 30.25–1 Cargoes carried in vessels certificated under the rules of this subchapter.

(a) Table 30.25–1 lists flammable or combustible cargoes that, when transported in bulk, must be in vessels certificated under this subchapter D.

(b) A mixture or blend of two or more cargoes appearing in Table 30.25–1 may be transported under this subchapter D.

(c) A mixture or blend of one or more cargoes appearing in Table 30.25–1 and one or more cargoes appearing in Table 2, 46 CFR part 153, may be carried under this subchapter D if the mixture is flammable or combustible.

(d) Any mixture containing one or more substance categorized by the International Maritime Organization (IMO) and listed in Table 30.25–1 as a category X, Y, or Z noxious liquid substance (NLS) may be carried in bulk—

(1) Under this subchapter D if the vessel is not regulated under 46 CFR part 153;

(2) Under part 153 if the vessel is regulated under that part; or alternatively under 33 CFR part 151 in the case of a category Y oil-like NLS; or

(3) Under 33 CFR part 151 if the cargo is a category Z NLS or a mixture of non-NLS and category Z NLS cargoes.

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Acetochlor *	X
Acetone	Z
Acetophenone	#
Acrylonitrile-Styrene copolymer dispersion in polyether polyol	Y
Alcohol(C6-C17)(secondary) poly(3-6)ethoxylates	Y
Alcohol(C6-C17)(secondary) poly(7-12)ethoxylates	Y
Alcohol(C9-C11) poly(2.5-9)ethoxylate	Y
Alcohol(C12-C15) poly(. . .)ethoxylates, see Alcohol(C12-C16) poly(. . .) ethoxylates	Y
Alcohol(C12-C16) poly(1-6)ethoxylates	Y
Alcohol(C12-C16) poly(7-19)ethoxylates	Y
Alcohol(C12-C16) poly(20+)ethoxylates	Y
Alcohols (C13+)	Y
Alcoholic beverages, n.o.s.	Z
Aliphatic oil	I
Alkanes (C6-C9)	X
Iso- and cyclo-alkanes (C10-C11)	Y
Iso- and cyclo-alkanes (C12+)	Y
n-Alkanes (C10+)	Y
Alkaryl polyethers (C9-C20)	Y
Alkenyl(C11+) amide *	X
Alkenyl(C8+) amine, Alkenyl(C12+) acid ester mixture	#
Alkyl acrylate-Vinylpyridine copolymer in toluene *	Y
Alkylbenzene, alkylindane, alkylindene mixture (each C12-C17) *	Z
Alkyl(C3-C4) benzenes*	Y
Alkyl(C5-C8) benzenes*	X
Alkyl(C8-C9) phenylamine in aromatic solvents*	Y
Alkyl(C9+) benzenes	Y
Alkyl(C11-C17) benzene sulfonic acid *	Y
Alkylbenzene sulfonic acid (4% or less)	#
Alkyl dithiocarbamate (C19-C35) *	Y
Alkyl dithiothiadiazole (C6-C24)	Y
Alkyl ester copolymer (C4-C20)	Y
Alkyl(C7-C11)phenol poly(4-12) ethoxylate	Y
Alkyl phenol sulfide (C8-C40), see Alkyl(C8-C40) phenol sulfide	
Alkyl(C8-C40) phenol sulfide	Z
Alkyl(C8-C9) phenylamine in aromatic solvents *	Y
Alkyl(C9-C15) phenyl propoxylate	Z
Alkyl(C8-C10) polyglucoside solution (65% or less) *	Y
Alkyl(C12-C14) polyglucoside solution (55% or less) *	Y
Alkyl(C8-C10)/(C12-C14):(40% or less/60% or more) polyglucoside solution (55% or less) *	Y
Alkyl(C8-C10)/(C12-C14):(60% or more/40% or less) polyglucoside solution (55% or less)	Y

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Alkyl(C8-C10)/(C12-C14):(50%/50%) polyglucoside solution (55% or less)*	Y
Alkyl(C10-C20, saturated and unsaturated) phosphate *	Y
n-Alkyl phthalates, see individual phthalates	
Alkyl sulfonic acid ester of phenol	Y
Aminoethyldiethanolamine/Aminoethylethanolamine solution	Z
2-Amino-2-methyl-1-propanol *	Z
Amyl acetate (all isomers)	Y
Amyl alcohol (iso-, n-, sec-, primary, tert-)	Z
tert-Amyl ethyl ether *	Z
tert-Amyl methyl ether	X
Amyl methyl ketone, see Methyl amyl ketone	
Amylene, see Pentene (all isomers)	
Animal acid oil	#
Animal and Fish acid oils and distillates, n.o.s.	#
Animal and Fish oils, n.o.s.	#
Animal oil	#
Aromatic oil	I
Aryl polyolefins (C11-C50)	Y
Asphalt	I
Asphalt blending stocks:	
Roofers flux	I
Straight run residue	I
Aviation alkylates (C8 paraffins and iso-paraffins BPT 95-120°C) *	X
Barium long-chain alkyl (C8-C14) phenate sulfide	#
Beechnut oil	#
Behenyl alcohol, see Alcohols (C13+)	
Benzene tricarboxylic acid, trioctyl ester	Y
Benzyl acetate*	Y
Benzyl alcohol	Y
Brake fluid base mix: Poly(2-8)alkylene(C2-C3) glycols/Polyalkylene(C2-C10) glycols monoalkyl(C1-C4) ethers and their borate esters	Z
Butene, see Butylene	
Butene oligomer	X
Butyl acetate (all isomers)	Y
Butyl alcohol (iso-, n-, sec-, tert-), see Butyl alcohol (all isomers)	
Butyl alcohol (all isomers)	Z
Butylbenzene (all isomers) *	X
Butyl benzyl phthalate	X
Butyl butyrate (all isomers) *	Y
Butylene glycol	Z
1,3-Butylene glycol, see Butylene glycol	
iso-Butyl formate	#
n-Butyl formate	#
Butyl heptyl ketone	#
Butyl methyl ketone, see Methyl butyl ketone	
n-Butyl propionate	Y
Butyl stearate	#
Butyl toluene	#
gamma-Butyrolactone	Y
Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture	#
Calcium alkyl salicylate, see Calcium long-chain alkyl salicylate (C13+)	
Calcium long-chain alkaryl sulfonate (C11-C50)	#
Calcium long-chain alkyl phenate (C8-C40), see Calcium long-chain alkyl(C5-C10) phenate *or* Calcium long-chain alkyl(C11-C40) phenate	
Calcium long-chain alkyl(C5-C10) phenate	Y
Calcium long-chain alkyl(C11-C40) phenate	Y
Calcium long-chain alkyl phenolic amine (C8-C40)	#
Calcium long-chain alkyl salicylate (C13+)	Y
Candelilla wax, see Waxes	
Caprolactam solutions, see epsilon-Caprolactam (molten or aqueous solutions)	
epsilon-Caprolactam (molten or aqueous solutions) *	Z
Carnauba wax, see Waxes	
Cetyl alcohol, see Alcohols (C13+)	
Cetyl- stearyl alcohol, see Alcohols (C13+)	
Chlorinated paraffins (C10-C13) *	X
1-(4-Chlorophenyl)-4,4-dimethyl-pentan-3-one *	Y
Citric acid (70% or less) *	Z
Clarified oil	I

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Coal oil	#
Coconut oil fatty acid methyl ester*	Y
Cod liver oil	#
Copper salt of long-chain (C17+) alkanoic acid	Y
Corn acid oil	#
Cotton seed acid oil	#
Cotton seed, fatty acid, see Cotton seed oil, fatty acid	.....
Cotton seed oil, fatty acid	#
Crude Isononylaldehyde	#
Crude Isopropanol	@Z
† Crude oil	I
Cumene , see Propylbenzene (all isomers)	.....
Cycloheptane*	X
Cyclohexane	Y
Cyclohexanol	Y
Cyclohexyl acetate*	Y
1,3-Cyclopentadiene dimer (molten)	Y*
Cyclopentane*	Y
Cyclopentene*	Y
p-Cymene	Y
Dark mixed acid oil	#
Decahydronaphthalene	Y
iso-Decaldehyde	#
n-Decaldehyde	#
Decane, see n-Alkanes (C10+)	.....
Decanoic acid*	X
Decene	X
Decyl acetate	#
Decyl alcohol (all isomers)	Y
n-Decylbenzene, see Alkyl(C9+)benzenes	.....
Detergent alkylate, see Alkyl(C9+)benzenes	.....
Diacetone alcohol	Z
Dialkyl(C10-C14) benzenes, see Alkyl(C9+) benzenes	.....
Dialkyl(C8-C9) diphenylamines	Z
Dialkyl(C7-C13) phthalates	X
Including:	
Diisodecyl phthalate.	
Diisononyl phthalate.	
Dinonyl phthalate.	
Ditridecyl phthalate.	
Diundecyl phthalate.	
Dibutyl carbinol, see Nonyl alcohol (all isomers)	.....
Dibutyl hydrogen phosphonate*	Y
2,6-Di-ter*t*-butylphenol*	X
Dibutyl phthalate*	X
ortho-Dibutyl phthalate, see Dibutyl phthalate	.....
Dibutyl terephthalate*	Y
Dicyclopentadiene, see 1,3-Cyclopentadiene dimer (molten)	.....
Diesel oil	I
Diethylbenzene	Y
Diethylene glycol	Z
Diethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Diethylene glycol butyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate	.....
Diethylene glycol diethyl ether	Z
Diethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Diethylene glycol ethyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate	.....
Diethylene glycol n-hexyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Diethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Diethylene glycol methyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate	.....
Diethylene glycol phenyl ether	#
Diethylene glycol phthalate	Y
Diethylene glycol propyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Di-(2-ethylhexyl)adipate	Y
Di-(2-ethylhexyl)phthalate, see Dioctyl phthalate	.....
Diethyl phthalate	Y
Diglycidyl ether of bisphenol A	X
Diglycidyl ether of bisphenol F*	Y
Diheptyl phthalate	Y

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Di-n-hexyl adipate *	X
Dihexyl phthalate	Y
Diisobutyl carbinol, see Nonyl alcohol (all isomers)	
Diisobutylene	Y
Diisobutyl ketone	Y
Diisobutyl phthalate	X
Diisodecyl phthalate, see Dialkyl(C7-C13) phthalates	
Diisononyl adipate	Y
Diisononyl phthalate, see Dialkyl(C7-C13) phthalates	
Diisooctyl phthalate	Y
Diisopropylbenzene (*all isomers*)	X
Diisopropylnaphthalene	Y
Dimethyl adipate	X
Dimethylbenzene, see Xylenes	
Dimethyl glutarate	Y
Dimethyl octanoic acid *	Y
Dimethyl phthalate	Y
Dimethylpolysiloxane	Y
2,2-Dimethylpropane-1,3-diol (molten or solution)	Z
Dimethyl succinate	Y
Dinonyl phthalate	Y
Dioctyl phthalate	X
Dipentene	Y
Diphenyl	X
Diphenylamine (molten) *	Y
Diphenylamines, alkylated *	Y
Diphenyl/Diphenyl ether mixtures	X
Diphenyl ether	X
Diphenyl ether/Diphenyl phenyl ether mixture	X
Diphenylol propane-epichlorohydrin resins *	X
Dipropylene glycol	Z
Dipropylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Dipropylene glycol dibenzoate	#
Dipropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Dithiocarbamate ester (C7-C35)*	X
Distillates:	
Flashed feed stocks	I
Straight run	I
Diundecyl phthalate	Y
Dodecane (all isomers)	Y
Dodecanol, see Dodecyl alcohol	
Dodecene (all isomers)	X
Dodecyl alcohol	Y
Dodecyl benzene, see Alkyl (C9+) benzenes	
Dodecyl hydroxypropyl sulfide	X
Dodecyl phenol	X
Dodecyl xylene	Y
Drilling brines (containing zinc salts) (if flammable or combustible) *	X
Drilling brines, including: Calcium bromide solution, calcium chloride solution and sodium chloride solution (if flammable or combustible) *	Z
Drilling mud (low toxicity) (if flammable or combustible)	#
ETBE, see Ethyl tert-butyl ether	
2-Ethoxyethyl acetate	Y
Ethoxylated alkyloxy alkyl amine, see Ethoxylated long-chain (C16+) alkyloxyalkylamine	
Ethoxy triglycol (crude)	#
Ethyl acetate	Z
Ethyl acetoacetate	Z
Ethyl alcohol	Z
Ethyl amyl ketone	Y
Ethylbenzene	Y
Ethyl butanol	#
Ethyl tert-butyl ether	Y
Ethyl butyrate	Y
Ethyl cyclohexane	Y
S-Ethyl dipropylthiocarbamate *	Y
Ethylene carbonate	Z
Ethylene glycol	Y
Ethylene glycol acetate	Y

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Ethylene glycol butyl ether acetate	Y
Ethylene glycol diacetate	Y
Ethylene glycol dibutyl ether	#
Ethylene glycol ethyl ether acetate, see 2-Ethoxyethyl acetate	
Ethylene glycol methyl butyl ether	#
Ethylene glycol methyl ether acetate	Y
Ethylene glycol phenyl ether	Z
Ethylene glycol phenyl ether/Diethylene glycol phenyl ether mixture	Z
Ethyl-3-ethoxypropionate	Y
2-Ethylhexaldehyde, see Octyl aldehydes	
2-Ethylhexanoic acid	Y
Ethylhexoic acid, see 2-Ethylhexanoic acid	
2-Ethylhexanol, see Octanol (all isomers)	
Ethyl hexyl phthalate	#
2-Ethyl-2-(hydroxymethyl) propane-1,3-diol, (C8-C10) ester	Y
Ethyl propionate	Y
Ethyl toluene	Y
Fatty acid (saturated, C13+)	Y
Fatty acids, (C16+) *	Y
Fatty acids, essentially linear (C6-C18) 2-ethylhexyl ester *	Y
Fish acid oil	#
Formamide	Y
Furfuryl alcohol	Y
† Gas oil, cracked	I
Gas oil, high pour	I
Gas oil, low pour	I
Gas oil, low sulfur	I
Gasoline blending stocks:	
Alkylates	I
† Reformates	I
Gasolines:	
† Automotive (*containing not over 4.23 grams lead per gallon*)	I
† Aviation (*containing not over 4.86 grams lead per gallon*)	I
Casinghead (*natural*)	I
Polymer	I
† Straight run	I
Gasoline (Natural gas condensate)	I
Glycerine	Z
Glycerine (83%), Dioxanedimethanol (17%) mixture	#
Glycerol, see Glycerine	
Glycerol ethoxylated *	OS
Glycerol monooleate	Y
Glycerol polyalkoxylate	#
Glycerol, propoxylated and ethoxylated *	Z
Glycerol/sucrose blend propoxylated and ethoxylated *	Z
Glyceryl triacetate	Z
Glycidyl ester of tridecyl acetic acid, see Glycidyl ester of C10 trialkylacetic acid	
Glycidyl ester of versatic acid, see Glycidyl ester of C10 trialkylacetic acid	
Glycidyl ester of C10 trialkylacetic acid	Y
Glycol diacetate, see Ethylene glycol diacetate	
Glycol triacetate, see Glyceryl triacetate	
Glyoxal solution (40% or less)	Y
Glyphosate solution (not containing surfactant)	Y
Groundnut acid oil	#
Groundnut oil *	Y
Hazelnut oil	#
Heartcut distillate	I
Heptadecane, see n-Alkanes (C10+)	
Heptane (all isomers)	X
Heptanoic acid, see n-Heptanoic acid	
n-Heptanoic acid *	Z
Heptanol (all isomers)	Y
Heptene (all isomers)	Y
Heptyl acetate	Y
Herbicide (C15H22NO2Cl), see N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methylchloroacetanilide	
Hexadecanol, see Alcohol (C 13+)	
1-Hexadecylnaphthalene/1,4-Bis(hexadecyl)naphthalene mixture	Y
Hexaethylene glycol, see Polyethylene glycol	

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Hexamethylene glycol	Z
Hexamethylenetetramine solutions	Z
Hexane (all isomers)	Y
1,6-Hexanediol, distillation overheads *	Y
Hexanoic acid	Y
Hexanol	Y
Hexene (all isomers)	Y
Hexyl acetate	Y
Hexylene glycol	Z
Hydrogenated starch hydrolysate *	OS
2-Hydroxy-4-(methylthio)butanoic acid	Z
Hydroxy terminated polybutadiene, see Polybutadiene, hydroxy terminated	.....
Illipe oil *	Y
Isoamyl alcohol *	Z
Isobutyl alcohol *	Z
Isobutyl formate *	Z
Isobutyl methacrylate *	Z
Isopropyl acetate *	Z
Isopropyl alcohol*	Z
Isopropylcyclohexane*	Y
Jatropha oil*	Y
Jet fuels:	
† JP-4	I
JP-5 (*kerosene, heavy*)	I
JP-8	I
Kerosene	I
Lactic acid	Z
Lanolin oil	#
Lard acid oil	#
Latex: Carboxylated styrene-Butadiene copolymer; Styrene-Butadiene rubber*	Z
Lauric acid*	X
Lecithin	OS
Long-chain alkaryl polyether (C11-C20)	Y
Long-chain alkaryl sulfonic acid (C16-C60)	Y
Long-chain alkylphenate/Phenol sulfide mixture	Y
Lubricating oil	I
L-Lysine solution (60% or less) *	Z
Magnesium long-chain alkaryl sulfonate (C11-C50)	Y
Magnesium long-chain alkyl phenate sulfide (C8-C20)	#
Magnesium long-chain alkyl salicylate (C11+)	Y
Magnesium nonyl phenol sulfide, see Magnesium long-chain alkyl phenate sulfide (C8-C20)	.....
Mango kernel oil *	Y
2-Mercaptobenzothiazol (*in liquid mixtures*)	#
3-Methoxy-1-butanol	Z
3-Methoxybutyl acetate	Y
1-Methoxy-2-propyl acetate	#
N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methylchloroacetanilide *	X
Methoxy triglycol, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Methyl acetate	Z
Methyl acetoacetate	Z
Methyl alcohol	Y
Methylamyl acetate	Y
Methylamyl alcohol	Z
Methyl amyl ketone	Z
Methyl butanol, see the amyl alcohols	.....
Methylbutenol	Y
Methyl tert-butyl ether	Z
Methyl butyl ketone	Y
Methylbutynol *	Z
Methyl butyrate	Y
Methylcyclohexane *	Y
Methylcyclopentadiene dimmer *	Y
Methyl 3-(3,5 di-tert-butyl-4-hydroxyphenyl)propionate crude melt *	[Y]
Methyl ethyl ketone	Z
N-Methylglucamine solution (70% or less)	Z
Methyl heptyl ketone	#
Methyl isobutyl carbinol, see Methyl amyl alcohol	.....
Methyl isobutyl ketone	Z

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
3-Methyl-3-methoxybutanol	Z
3-Methyl-3-methoxybutyl acetate	#
Methyl pentene, see Hexene (all isomers)	.....
Methyl tert-pentyl ether, see tert-Amyl methyl ether	.....
2-Methyl-1,3-propanediol	Z
Methyl propyl ketone	Z
N-Methyl-2-pyrrolidone	Y
Methyl salicylate *	Y
Metolachlor, see N-(2-Methoxy-1-methylethyl)-2-ethyl-6-methylchloroacetanilide	.....
Mineral oil	I
Mineral seal oil	I
Mineral spirits	I
Mixed acid oil	#
Mixed general acid oil	#
Mixed hard acid oil	#
Mixed soft acid oil	#
Motor oil	I
MTBE, see Methyl tert-butyl ether	.....
Myrcene	X
Naphtha:	
† Aromatic (*having less than 10% Benzene*)	I
Heavy	I
Paraffinic	I
† Petroleum	I
† Solvent	I
Stoddard Solvent	I
† Varnish makers' and painters' (75%)	I
Naphthenic acid	#
Neatsfoot oil	#
Neodecanoic acid *	Y
Nitrilotriacetic acid, trisodium salt solution *	Y
Nonane (all isomers)	X
Nonanoic acid (all isomers)	Y
Nonanoic, Tridecanoic acid mixture	#
Nonene (all isomers)	Y
Nonyl acetate	#
Nonyl alcohol (all isomers)	Y
Nonyl methacrylate monomer	Y
Nonylphenol	X
Nonylphenol poly(4+)ethoxylate	Y
Nonyl phenol sulfide (90% or less), see Alkyl (C8-C40) phenol sulfide	.....
Noxious liquid, F, (2) n.o.s. (''trade name'' contains ''principle components'') ST 1, Cat X	X
Noxious liquid, F, (4) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat X	X
Noxious liquid, F, (6) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat Y	Y
Noxious liquid, F, (8) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat Y	Y
Noxious liquid, F, (10) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat Z	Z
Noxious liquid, (11) n.o.s. (''trade name'' contains ''principle components'') Cat Z (if flammable or combustible)	Z
Non noxious liquid, (12) n.o.s. (''trade name'' contains ''principle components'') Cat OS (if flammable or combustible)	OS
Nutmeg butter oil	#
Octadecanol, see Alcohols (C13+)	.....
Octadecene, see the olefin or alpha-olefin entries	.....
Octadeceneamide solution	#
Octamethylcyclotetrasiloxane*	Y
Octane (all isomers)	X
Octanoic acid (all isomers)	Y
Octanol (all isomers)	Y
Octene (all isomers)	Y
Octyl acetate, see n-Octyl acetate	.....
n-Octyl acetate *	Y
Octyl alcohol (iso-, n-), see Octanol (all isomers)	.....
Octyl aldehydes	Y
Octyl decyl adipate	Y
Octyl phthalate, see Dioctyl phthalate	.....
Oil, edible: Poppy seed	I
Oil, fuel:	
No. 1 (*kerosene*)	I
No. 1-D	I
No. 2	I

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
No. 2-D	I
No. 4	I
No. 5	I
No. 6	I
Oiticica oil	#
alpha-Olefins (C6-C18) mixtures	X
alpha-Olefins (C13-C18) mixtures, see alpha-Olefins (C6-C18)	.....
Olefins (C13+, all isomers)	Y
Olefin-Alkyl ester copolymer (molecular weight 2000+)	Y
Olefin mixtures (C5-C7)	Y
Olefin mixtures (C5-C15)	X
Oleic acid	Y
Oleyl alcohol, see Alcohols (C13+)	.....
Orange juice (concentrated) *	OS
Palm kernel acid oil, methyl ester	#
Palm kernel olein *	Y
Palm kernel stearin *	Y
Palm mid-fraction *	Y
Palm oil fatty acid methyl ester *	Y
Palm olein *	Y
Palm stearin *	Y
Paraffin wax	Y
n-Paraffins (C10-C20), see n-Alkanes (C10+)	.....
Peanut oil, see Groundnut oil	.....
Peel oil (oranges and lemons)	#
Penetrating oil	I
Pentadecanol, see Alcohols (C13+)	.....
Pentaethylene glycol, see Polyethylene glycols	.....
Pentane (all isomers)	Y
Pentanoic acid	Y
Pentene (all isomers)	Y
n-Pentyl propionate	Y
Perilla oil	#
Petrolatum	Y
1-Phenyl-1-xylyl ethane	Y
Phosphate esters, alkyl (C12-C14) amine	Y
Phosphosulfurized bicyclic terpene	#
Pilchard oil	#
Pinene, see the alpha- or beta- isomers	.....
alpha-Pinene	X
beta-Pinene	X
Pine oil *	X
Polyalkyl(C18-C22) acrylate in xylene *	Y
Polyalkylene glycols, polyalkylene glycol monoalkyl ethers mixtures	#
Polyalkylalkenaminesuccinimide, molybdenum oxysulfide *	Y
Polyalkylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	.....
Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether	Z
Including:	
Diethylene glycol butyl ether.	
Diethylene glycol ethyl ether.	
Diethylene glycol n-hexyl ether.	
Diethylene glycol methyl ether.	
Diethylene glycol n-propyl ether.	
Dipropylene glycol butyl ether.	
Dipropylene glycol methyl ether.	
Polypropylene glycol methyl ether.	
Triethylene glycol butyl ether.	
Triethylene glycol ethyl ether.	
Triethylene glycol methyl ether.	
Tripropylene glycol methyl ether.	
Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether acetate	Y
Including:	
Diethylene glycol butyl ether acetate.	
Diethylene glycol ethyl ether acetate.	
Diethylene glycol methyl ether acetate.	
Polyalkylene oxide polyol	#
Polyalkyl(C10-C20) methacrylate	Y
Polyalkyl(C10-C18) methacrylate/ethylene-propylene copolymer mixture *	Y

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Polybutadiene, hydroxy terminated	#
Polybutene	Y
Polybutenyl succinimide	Y
Poly(2+)cyclic aromatics*	X
Polydimethylsiloxane, see Dimethylpolysiloxane	
Polyether (molecular weight 1350+)	Y
Polyether polyols	#
Polyethylene glycol	Z
Polyethylene glycol dimethyl ether	Z
Poly(ethylene glycol) methylbutenyl ether (MW≤1000)*	Z
Polyethylene glycol monoalkyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Polyglycerine, sodium salt solution (containing less than 3% sodium hydroxide)	Z
Polyglycerol	#
Polyisobutenamine in aliphatic (C10-C14) solvent*	Y
Polyisobutenyl anhydride adduct	Z
Poly(4+)isobutylene	Y
Polymerized esters	#
Polyolefin amide alkeneamine (C17+)	Y
Polyolefin amide alkeneamine (C28+), see Polyolefin amide alkeneamine (C17+)	
Polyolefin amide alkeneamine borate (C28-C250)	Y
Polyolefin amide alkeneamine/Molybdenum oxysulfide mixture	#
Polyolefin amide alkeneamine polyol	Y
Polyolefinamine (C28-C250)*	Y
Polyolefinamine in alkyl (C2-C4) benzenes*	Y
Polyolefinamine in aromatic solvent*	Y
Polyolefin aminoester salts (molecular weight 2000+)*	Y
Polyolefin anhydride	Y
Polyolefin ester (C28-C250)	Y
Polyolefin phenolic amine (C28-C250)	Y
Polyolefin phosphorosulfide, barium derivative (C28-C250)	Y
Poly(20)oxyethylene sorbitan monooleate	Y
Poly(5+)propylene	Y
Polypropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Polysiloxane	Y
Poppy oil	#
Potassium oleate	Y
Potassium salt of polyolefin acid	#
n-Propoxypropanol, see Propylene glycol monoalkyl ether	
n-Propyl acetate	Y
n-Propyl alcohol	Y
iso-Propylbenzene, see Propylbenzene (all isomers)	
n-Propylbenzene, see Propylbenzene (all isomers)	
Propylbenzene (all isomers)	Y
Propylene-Butylene copolymer	#
Propylene carbonate	Z
Propylene dimer	#
Propylene glycol	Z
Propylene glycol n-butyl ether, see Propylene glycol monoalkyl ether	
Propylene glycol ethyl ether, see Propylene glycol monoalkyl ether	
Propylene glycol methyl ether, see Propylene glycol monoalkyl ether	
Propylene glycol methyl ether acetate	Z
Propylene glycol monoalkyl ether	Z
Including:	
n-Propoxypropanol.	
Propylene glycol n-butyl ether.	
Propylene glycol ethyl ether.	
Propylene glycol methyl ether.	
Propylene glycol propyl ether.	
Propylene glycol phenyl ether	Z
Propylene glycol propyl ether, see Propylene glycol monoalkyl ether	
Propylene polymer (*in liquid mixtures*)	#
Propylene tetramer	X
Propylene trimer	Y
Pseudocumene, see Trimethylbenzenes	
Raisin seed oil	#
Rapeseed acid oil	#
Rape seed oil fatty acid methyl esters*	Y
Residual oil	I

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Road oil	I
Rosin *	Y
Rosin oil	#
Rum, see Alcoholic beverages, n.o.s	
Safflower acid oil	#
Salad oil	#
Seal oil	I
Sesame oil	#
Soapstock oil	#
Sodium acetate, Glycol, Water mixture (containing 1% or less, Sodium hydroxide) (if flammable or combustible)	#
Sodium benzoate	Z
Sodium long-chain alkyl salicylate (C13+)	#
Sodium thiocyanate solution (56% or less) *	Y
Soya acid oil	#
Soyabean fatty acid methyl ester	#
Soyabean oil (epoxidized)	#
Spindle oil	I
Stearic acid, see Fatty acid (saturated, C13+)	
Stearyl alcohol, see Alcohols (C13+)	
Sulfohydrocarbon (C3-C88)	Y
Sulfohydrocarbon, long-chain (C18+) alkylamine	#
Sulfolane	Y
Sulfurized fat (C14-C20)	Z
Sulfurized polyolefinamide alkene(C28-C250) amine	Z
Sunflower oil, see Sunflower seed acid oil	
Sunflower seed acid oil	#
Tall oil, distilled *	Y
Tall oil, fatty acid	#
Tallow	Y
Tallow alcohol, see Alcohols (C13+)	
Tallow alkyl nitrile	#
Tallow fatty acid	Y
TAME, see tert-Amyl methyl ether	
Tetradecanol, see Alcohols (C13+)	
Tetradecene, see alpha-Olefins (C6-C18) mixtures, Olefin mixtures (C5-C15), or Olefins (C13+, all isomers)	
Tetradecylbenzene, see Alkyl(C9+)benzenes	
Tetraethylene glycol	Z
Tetraethyl silicate monomer/oligomer (20% in ethanol) *	Z
Tetrahydronaphthalene	Y
Tetramethylbenzene (all isomers) *	X
Tetrapropylbenzene, see Alkyl(C9+)benzenes	
Toluene	Y
Transformer oil	I
Triarylphosphate, see Triisopropylated phenyl phosphates	
Tributyl phosphate	Y
Tridecane	Y
Tridecanoic acid	Y
Tridecanol, see Alcohols (C13+)	
Tridecene, see Olefins (C13+, all isomers)	
Tridecyl acetate	Y
Tridecylbenzene, see Alkyl(C9+)benzenes	
Triethylbenzene	X
Triethylene glycol	Z
Triethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Triethylene glycol butyl ether mixture	#
Triethylene glycol di-(2-ethylbutyrate)	#
Triethylene glycol ether mixture	#
Triethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Triethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Triethyl phosphate	Z
Triisooctyl trimellitate	#
Triisopropanolamine	Z
Triisopropylated phenyl phosphates	X
Trimethylbenzene (all isomers)	X
2,2,4-Trimethyl-1,3-pentanediol diisobutyrate	Y
2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate *	Y
2,2,4-Trimethyl-3-pentanol-1-isobutyrate	#
Tripropylene, see Propylene trimer	

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of the Table for explanation of symbols and terms used. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by tank barge.]

Cargo name	IMO Annex II pollution category
Tripropylene glycol	Z
Tripropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	
Trixylenyl phosphate, see Trixylyl phosphate	
Trixylyl phosphate	X
Tucum oil	#
Turbine oil	I
Turpentine	X
† *Turpentine substitute, see* White spirit (low (15–20%) aromatic)	
Undecanoic acid	Y
1-Undecanol, see Undecyl alcohol	
Undecene, see 1-Undecene	
1-Undecene	X
1-Undecyl alcohol, see Undecyl alcohol	
Undecyl alcohol	X
Undecylbenzene, see Alkyl(C9+)benzenes	
Vegetable oils, n.o.s	#
Vegetable protein solution (hydrolyzed) (if flammable or combustible) *	OS
Walnut oil	#
Waxes	Y
† *White spirit, see* White spirit (low (15–20%) aromatic)	
† White spirit, low (15–20%) aromatic	Y
Wine, see Alcoholic beverages, n.o.s	
Xylenes	Y
Xylenes/Ethylbenzene (10% or more) mixture *	Y
Zinc alkaryl dithiophosphate (C7-C16)	Y
Zinc alkenyl carboxamide	Y
Zinc alkyl dithiophosphate (C3-C14)	Y

NOTES:

"#" = NLS status is undetermined—see 46 CFR 153.900(c) for shipping on an oceangoing vessel.

"†" = Marine occupational safety and health regulations for benzene, 46 CFR part 197, subpart C, may apply to this cargo.

"[ ]" = Provisional categorization to which the United States is party.

"@" = The NLS category has been assigned by the U.S. Coast Guard, in absence of one assigned by the IMO. The category is based upon a GESAMP Hazard Profile or by analogy to a closely related product having an NLS assigned.

"*" From the March 2012 Annex to the 2007 edition of the IBC Code.

"Cat" = Pollution category.

"F" = Flammable (flash point less than or equal to 60 degrees C (140 degrees F) NLS.

"I" = An "oil" under MARPOL Annex I.

Italicized words are not part of the cargo name but may be used in addition to the cargo name.

"n.o.s." = Not otherwise specified.

"OS" = An "other substance" considered at present to present no harm to marine resources, human health, amenities, or other legitimate uses of the sea when discharged into the sea from tank cleaning or deballasting operations.

"see" = A redirection to the preferred, alternative cargo name—for example in "*Diethyl ether, see* Ethyl ether," the pollution category for "diethyl ether" will be found under the preferred, alternative cargo name "ethyl ether."

"ST" = Ship type.

"X," "Y," and "Z" = NLS categories under MARPOL Annex II.

PART 150—COMPATIBILITY OF CARGOES

■ 3. The authority citation for part 150 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1. Section 150.105 issued under 44 U.S.C. 3507; Department of Homeland Security Delegation No. 0170.1.

■ 4. Revise Table I to Part 150 to read as follows:

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Acetaldehyde	19		AAD.	
Acetic acid	4	2	AAC.	
Acetic anhydride	11	2	ACA.	
Acetochlor	10		ACG.	
Acetone	18	2	ACT.	
Acetone cyanohydrin	0	1, 2	ACY.	
Acetonitrile	37		ATN.	
Acetonitrile (low purity grade) *	37	3	AIL.	
Acetophenone	18		ACP.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Acid oil mixture from soybean, corn (maize) and sunflower oil refining, see Oil, misc: Acid mixture from soybean, corn (maize) and sunflower oil refining*.	34	3	.....	AOM.
Acrolein	19	2	ARL.	
Acrylamide solution (50% or less)*	10	3	AAM	AAO.
Acrylic acid	4	2	ACR.	
Acrylic acid/ethenesulfonic acid copolymer with phosphonate groups, sodium salt solution*.	30	3	APG.	
Acrylonitrile	15	2	ACN.	
Acrylonitrile-Styrene copolymer dispersion in Polyether polyol	20	.....	ALE.	
Adiponitrile	37	.....	ADN.	
Alachlor technical (90% or more)*	33	3	ALH	ALI.
Alcohol (C12-C13, branched and linear) poly (4-8) propoxy sulfates, sodium salt 25-30% solution*.	41	3	ABL.	
Alcohol (C9-C11) poly (2.5-9) ethoxylates*	40	3	AET	ALY/APV/APW.
Alcohol (C6-C17) (secondary) poly (3-6) ethoxylates*	40	3	AEA	AEB.
Alcohol (C6-C17) (secondary) poly (7-12) ethoxylates*	40	3	AEB	AEA.
Alcohol (C12-C16) poly (1-6) ethoxylates*	40	3	AED	AET/ALY/APW.
Alcohol (C12-C16) poly (7-19) ethoxylates*	40	3	APV	AET/ALY/APV.
Alcohol (C12-C16) poly (20+) ethoxylates*	40	3	APW	AET/ALY.
Alcoholic beverages, n.o.s.*	20	3	ABV.	
Alcohols (C13+)	20	.....	ALY	ASY/AYK.
Including:				
Oleyl alcohol (octadecenol).				
Pentadecanol.				
Tallow alcohol.				
Tetradecanol.				
Tridecanol.				
Alcohol polyethoxylates	20	.....	.....	AEA/AEB/AED/AET/APV/APW.
Alcohol polyethoxylates, secondary	20	.....	.....	AEA/AEB.
Alcohol (C12-C15) poly (. . .) ethoxylate, see Alcohol (C12-C16) poly (. . .) ethoxylate.	20			
Alcohols (C12+), primary, linear*	20	3	ASY	ALR/AYK/AYL.
Alcohols (C8-C11), primary, linear and essentially linear	20	.....	ALR	AYK/AYL.
Alcohols (C12-C13), primary, linear and essentially linear*	20	3	AYK	ALR/ASY/AYL.
Alcohols (C14-C18), primary, linear and essentially linear*	20	3	AYL	ALR/ASY/AYK.
Alkanes (C6-C9)	31	.....	ALK.	
Including:				
Heptanes.				
Hexanes.				
Nonanes.				
Octanes.				
iso- & cyclo-Alkanes (C10-C11)	31	.....	AKI.	
iso- & cyclo-Alkanes (C12+)	31	.....	AKJ.	
Alkanes (C10-C26), linear and branched (flash point > 60 °C)*	31	3	ABD.	
n-Alkanes (C10+) (all isomers)	31	.....	ALV	ALJ.
Including:				
Decanes.				
Dodecanes.				
Heptadecanes.				
Tridecanes.				
Undecanes.				
Alkane (C14-C17) sulfonic acid, sodium salt solutions, see Sodium alkyl (C14-C17) sulfonates (60-65% solution).	34	.....	AKA	SAA (AKE/SSU).
Alkaryl polyethers (C9-C20)	41	.....	AKP.	
Alkenoic acid, polyhydroxy ester borated*	0	1, 3	AAY.	
Alkenyl(C11+)amide	10	.....	AKM.	
Alkenyl (C8+) amine, Alkenyl (C12+) acid ester mixture.				
Alkenyl (C16-C20) succinic anhydride	11	.....	AAH.	
Alkyl acrylate-Vinyl pyridine copolymer in Toluene	32	.....	AAP.	
Alkyl amine (C17+)	7	.....	AKY.	
Alkylaryl phosphate mixtures (more than 40% Diphenyl tolyl phosphate, less than 0.02% ortho-isomers).	34	.....	ADP.	
Alkylated (C4-C9) hindered phenols*	21	3	AYO.	
Alkyl(C3-C4)benzenes	32	.....	AKC.	
Including:				
Butylbenzenes.				
Cumene.				
Propylbenzenes.				
Alkyl(C5-C8)benzenes	32	.....	AKD..	
Including:				

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Amylbenzenes.				
Heptylbenzenes.				
Hexylbenzenes.				
Octylbenzenes.				
Alkyl(C9+)benzenes	32		AKB.	
Including:				
Decylbenzenes.				
Dodecylbenzenes.				
Nonylbenzenes.				
Tetradecylbenzenes.				
Tetrapropylbenzenes.				
Tridecylbenzenes.				
Undecylbenzenes.				
Alkylbenzene, Alkylindane, Alkylindene mixture (each C12-C17)	32		AIH.	
Alkyl benzene distillation bottoms *	0	1, 3	ABB.	
Alkylbenzene mixtures (containing at least 50% of Toluene) *	32	3	AZT.	
Alkyl (C11-C17) benzene sulfonic acid *	0	1, 3	ABN	ABS/ABQ.
Alkylbenzenesulfonic acid (less than 4%)	0	1, 2	ABQ	ABS/ABN.
Alkylbenzene sulfonic acid, sodium salt solution	33		ABT.	
Alkyl (C12+) dimethylamine *	7	3	ADM.	
Alkyl dithiocarbamate (C19-C35) *	34	3	ADB.	
Alkyl dithiothiadiazole (C6-C24)	33		ADT.	
Alkyl polyglucoside solution, see individual polyglucoside solution.	43		AGD	AGL/AGM AGN/AGO/AGP.
Alkyl ester copolymer (C4-C20)	34		AES	AEQ.
Alkyl (C8-C10)/(C12-C14):(40% or less/60% or more) polyglucoside solution (55% or less) *.	43	3	AGN	AGD/AGL AGM/AGO/AGP.
Alkyl (C8-C10)/(C12-C14):(50%/50%) polyglucoside solution (55% or less) *.	43	3	AGO	AGD/AGL/AGN/AGP.
Alkyl (C8-C10)/(C12-C14):(60% or more/40% or less) polyglucoside solution (55% or less) *.	43	3	AGP	AGD/AGL/AGM/AGN/AGO.
Alkyl(C7-C9) nitrates	34	2	AKN	ONE.
Alkyl (C4-C9) phenols	21		AYI	BLT/BTP/NNP/OPH.
Alkyl(C7-C11) phenol poly(4-12)ethoxylate	40		APN	NPE.
Alkyl (C8-C40) phenol sulfide	34		AKS.	
Alkyl phenol sulfide (C8-C40), see Alkyl (C8-C40) phenol sulfide	34			AKS.
Alkyl(C8-C9) phenylamine in aromatic solvents	9		ALP.	
Alkyl(C9-C15) phenyl propoxylate	40		AXL.	
Alkyl (C8-C10) polyglucoside solution (65% or less) *	43	3	AGL	AGD/AGM/AGN/AGO/AGP.
Alkyl (C12-C14) polyglucoside solution (55% or less) *	43	3	AGM	AGD/AGL/AGN/AGO/AGP.
Alkyl (C12-C16) propoxyamine ethoxylate *	8	3	AXE	LPE.
Alkyl ester copolymer in mineral oil	34		AEQ	AES.
Alkyl phthalates, see individual phthalates	34		AYS.	
Alkyl(C10-C20), saturated and unsaturated phosphite	34		AKL.	
Alkyl succinic anhydride	11		AUA.	
Alkyl sulfonic acid ester of phenol	34		AKH.	
Alkyl (C18+) toluenes *	32	3	AUS	AYL.
Alkyl toluene	32		AYL	AUS.
Alkyl (C18-C28) toluenesulfonic acid *	0	1, 3	AUU.	
Alkyl (C18-C28) toluenesulfonic acid, Calcium salts, borated *	34	3	AUB.	
Alkyl (C18-C28) toluenesulfonic acid, Calcium salts, low overbase *.	33	3	AUL.	
Alkyl (C18-C28) toluenesulfonic acid, Calcium salts, high overbase *.	33	3	AUC.	
Allyl alcohol	15	2	ALA.	
Allyl chloride	15		ALC.	
Aluminum chloride, Hydrochloric acid solution, see ''Aluminum chloride/Hydrogen chloride solution''.	0	1	AHS	AHG.
Aluminum chloride/Hydrogen chloride solution *	0	1,3	AHG	AHS.
Aluminum hydroxide, sodium hydroxide, sodium carbonate solution (40% or less) *.	43	3	AHN.	
Aluminum sulfate solution	43	2	ASX	ALM.
Amine C-6, morpholine process residue	9		AOI.	
2-(2-Aminoethoxy)ethanol	8		AEX.	
Aminoethyldiethanolamine/Aminoethylethanolamine solution	8		ADY.	
Aminoethylethanolamine	8		AEE.	
N-Aminoethylpiperazine	7		AEP.	
2-Amino-2-hydroxymethyl-1,3-propanediol solution	43		AHL.	
2-Amino-2-methyl-1-propanol	8		APZ	APQ/APR.
Ammonia, anhydrous	6		AMA.	
Ammonia, aqueous (28% or less Ammonia), see Ammonium hydroxide.	6			AMH.

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Ammonium bisulfite solution (70% or less)	43	2	ABX	ASU.
Ammonium chloride solution (less than 25%) *	43	3	AIS	AMC.
Ammonium hydrogen phosphate solution	0	1	AMI.	
Ammonium hydroxide (28% or less Ammonia)	6		AMH.	
Ammonium lignosulfonate solution, see also Lignin liquor	43		ALG	LNL.
Ammonium nitrate solution (93% or less)	0	1	ANW	AMN/AND/ANR.
Ammonium nitrate solution (45% or less)	0	1	AND	AMN/ANR/ANW.
Ammonium nitrate/Urea solution (containing Ammonia), see Urea/Ammonium nitrate solution (containing more than 2% Ammonia).	6			UAS (ANU/UAT/UAU/UAV).
Ammonium nitrate/Urea solution (containing less than 2% free Ammonia), see Urea/Ammonium nitrate solution (containing less than 2% free Ammonia).	6			UAT (ANU/UAS/UAU/UAV).
Ammonium nitrate/Urea solution (not containing Ammonia), see Urea/Ammonium nitrate solution (containing less than 1% Ammonia).	6			UAU (ANU/UAS/UAT/UAV).
Ammonium phosphate/Urea solution, see Urea/Ammonium phosphate solution.	43			UAP (APP/URE).
Ammonium polyphosphate solution	43		AMO	
Ammonium sulfate solution	43		ASW	AME/AMS.
Ammonium sulfate solution (20% or less)	43		AME	AMS/ASW.
Ammonium sulfide solution (45% or less *)	5	3	ASS	ASF.
Ammonium thiocyanate/Ammonium thiosulfate solution	0	1	ACV	ACS.
Ammonium thiosulfate solution (60% or less *)	43	3	ATV	ATF.
Amyl acetate (all isomers *)	34	3	AEC	IAT/AML/AAS/AYA.
Amyl acid phosphate	34		AIA	
n *-Amyl alcohol	20	3	AAN	AAI/AAL/APM/ASE/IAA.
Amyl alcohol, primary *	20	3	APM	AAI/AAL/ANN/APM/IAA.
sec-Amyl alcohol *	20	3	ASE	AAI/AAL/ANN/APM/IAA.
tert-Amyl alcohol *	20	3	AAL	AAI/APM/ASE/IAA.
Amylene, see Pentene (all isomers)	30		AMW	PTX (AMX/AMZ/PTE).
tert-Amylenes, see Pentene	30		AMZ	PTX (AMW).
tert-Amyl methyl ether	41		AYE.	
Amyl methyl ketone, see Methyl amyl ketone	18		AMJ	MAK (AMK).
Aniline	9		ANL.	
Animal and Fish oils, n.o.s.	34		AFN.	
Including:				
Cod liver oil.				
Lanolin.				
Neatsfoot oil.				
Pilchard oil.				
Sperm oil.				
Animal and Fish acid oils and distillates, n.o.s.	34		AFA.	
Including:				
Animal acid oil.				
Fish acid oil.				
Lard acid oil.				
Mixed acid oil.				
Mixed general acid oil.				
Mixed hard acid oil.				
Mixed soft acid oil.				
Anthracene oil (Coal tar fraction), see Coal tar	33		AHO	COR.
Apple juice	43		APJ.	
Argon, *liquefied*	0	1	ARG.	
Aryl polyolefins (C11-C50)	32		AYF.	
Asphalt	33		ASP	ACU.
Asphalt blending stocks, roofers flux	33		ARF.	
Asphalt blending stocks, straight run residue	33		ASR.	
Asphalt emulsion	33		ASQ.	
Asphalt, Kerosene, and other components	33		AKO.	
Aviation alkylates (C8 paraffins and iso-paraffins BPT 95-120 °C *).	31	3	AVA	GAK/GAV.
Barium long-chain (C11-C50) alkaryl sulfonate	34		BCA.	
Barium long- chain alkyl(C8-C14)phenate sulfide	34		BCH.	
Behenyl alcohol	20		BHY.	
Benzene	32	2	BNZ	BHA/BHB/PYG.
Benzene and mixtures having 10% Benzene or more	32		BHB	BHA/BNZ/PYG.
Benzene hydrocarbon mixtures (containing Acetylenes) (having 10% Benzene or more).	32		BHA	BHB/BNZ/PYG.
Benzene sulfonyl chloride	0	1, 2	BSC.	
Benzene/Toluene/Xylene mixtures (having 10% Benzene or more).	32		BTX	BHB/BNZ/PYG/TOL/XLX/XLM/XLO/XLP.

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Benzenetricarboxylic acid, trioctyl ester	34		BCE.	
Benzyl acetate	34		BZE.	
Benzyl alcohol	21		BAL.	
Benzyl chloride	36		BCL.	
Bio-fuel blends of Diesel/gas oil and Alkanes (C10-C26), linear and branched with a flash point >60 °C (>25% but < 99% by volume) *.	33	3	BIF	BIG/BIH/BII/BIJ/BIK.
Bio-fuel blends of Diesel/gas oil and Alkanes (C10-C26), linear and branched with a flash point >60 °C (>25% but <99% by volume) *.	33	3	BIG	BIF/BIH/BII/BIJ/BIK.
Bio-fuel blends of Diesel/gas oil and FAME (>25% but <99% by volume) *.	34	3	BIH	BIF/BIG/BII/BIJ/BIK.
Bio-fuel blends of Diesel/gas oil and vegetable oil (>25% but <99% by volume) *.	34	3	BII	BIF/BIG/BIH/BIJ/BIK.
Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume) *.	20	3	BIJ	BIF/BIG/BIH/BII/BIK.
Boronated Calcium sulfonate	34		BCU.	
Brake fluid base mix: Poly(2-8)alkylene (C2-C3) glycols/ Polyalkylene (C2-C10) glycols monoalkyl (C1-C4) ethers and their borate esters *.	20	3	BFY.	
Brominated Epoxy Resin in Acetone	41		BER.	
Bromochloromethane	36		BCM.	
Butadiene (all isomers)	30		BDI.	
Butadiene/Butylene mixtures (containing Acetylenes)	30		BBM	BBX/BDI/BTN/IBL.
Butane (all isomers)	31		BMX	IBT/BUT.
Butane/Propane mixture	31		BUP	LPG
1,4-Butanediol, see Butylene glycol	20		BDO	BUG.
2-Butanone, see Methyl ethyl ketone	18			MEK.
Butene, see Butylene				BUT/IBL.
Butene oligomer	30		BOL.	
Butyl acetate (all isomers *)	34	3	BAX	BCN/BTA/BYA/IBA.
Butyl acrylate (all isomers *)	14	3	BAR	BAI/BTC.
Butyl alcohol (iso-, n-, sec-, tert-), see Butyl alcohol (all isomers)	20	2		BAN/BAS/BAT/BAY/IAL.
Butyl alcohol (all isomers *)	20	2, 3	BAY	BAN/BAS/BAT/IAL.
Butylamine (all isomers *)	7	3	BTY	BAM/BTL/BUA/IAM.
*Butylbenzene (all isomers *), see* Alkyl(C3-C4)benzenes	32	3	BBE	AKC.
Butyl benzyl phthalate	34		BPH.	
Butyl butyrate (all isomers *)	34	3	BBA	BIB/BUB.
Butyl/Decyl/Cetyl/Eicosyl methacrylate mixture *	14	3	DER	BMH/BMI/BMN/CEM.
Butylenes (all isomers)	30		BTN	IBL.
n *-Butyl ether	41		BTE.	
Butylene glycol	20	2	BUG	BDO.
1,2-Butylene oxide	16		BTO.	
n-Butyl ether	41	3	BTE.	
n-Butyl formate	34		BFN	BFI/BFO.
Butyl heptyl ketone	18		BHK.	
Butyl methacrylate	14		BMH	BMI/BMN.
Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture, see Butyl/Decyl/Cetyl/Eicosyl methacrylate.	34			DER (BMH/BMI/BMN/ CEM).
Butyl methyl ketone, see Methyl butyl ketone	18			MBJ (MBK/MIK).
n-Butyl propionate	34		BPN.	
Butyl stearate	34		BST.	
Butyl toluene	32		BUE.	
Butyraldehyde (all isomers *)	19	3	BAE	BAD/BTR.
Butyric acid	4		BRA	IBR.
gamma-Butyrolactone	0	1, 2	BLA.	
Calcium alkaryl sulfonate (C11-C50), see Calcium long-chain alkaryl sulfonate (C11-C50) *.	34	3	CAE	CAY.
Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture.	34		CPX.	
Calcium alkyl (C10-C28) salicylate *	34	3	CAJ.	
Calcium alkyl salicylate, see Calcium long-chain alkyl salicylate (C13+), Calcium long-chain alkyl (C18-C28) salicylate, or Calcium alkyl (C10-C28) salicylate.	34			CAJ/CAK/CAZ.
Calcium bromide solution, see Drilling brines	43		CBI	DRS.
Calcium bromide/Zinc bromide solution, see Drilling brine (containing Zinc salts).	43			DZB.
Calcium carbonate slurry	34		CSR.	
Calcium chloride solution	43		CCS	CLC.
Calcium hydroxide slurry	5		COH	CAH.
Calcium hypochlorite solution (15% or less *)	5	3	CHU	CHY/CHZ.
Calcium hypochlorite solution (more than 15% *)	5	3	CHZ	CHU/CHY.

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Calcium lignosulfonate solution, see also Lignin liquor	43		CLL	LNL.
Calcium long-chain alkaryl sulfonate (C11-C50)	34		CAY.	
Calcium long-chain alkyl (C5-C10 *) phenate	34	3	CAU	CAN/CAQ/CAV/CAW.
Calcium long-chain alkyl (C5-C20) phenate	34		CAV	CAN/CAQ/CAU/CAW.
Calcium long-chain alkyl (C11-C40) phenate *	34	3	CAW	CAN/CAQ/CAU/CAV.
Calcium long-chain alkyl (C8-C40) phenate, see Calcium long-chain alkyl (C5-C10) phenate or Calcium long-chain alkyl (C11-C40) phenate.	34		CAQ	CAU/CAV (CAN/CAW).
Calcium long-chain alkyl phenate sulfide (C8-C40)	34		CPI.	
Calcium long-chain alkyl phenolic amine (C8-C40)	9		CPQ.	
Calcium long-chain alkyl salicylate (C13+)	34		CAK	CAJ/CAZ.
Calcium long-chain alkyl (C18-C28) salicylate *	34	3	CAJ.	
Calcium nitrate solutions (50% or less *)	34	3	CNU	CNT.
Calcium nitrate/Magnesium nitrate/Potassium chloride solution	34		CLM	CNT/CNU/MGN/MGO/PCS/PCU/PSD.
Calcium salts of fatty acids	34		CFF.	
Calcium stearate	34		CSE.	
Calcium sulfonate/Calcium carbonate/Hydrocarbon solvent mixture.	33		CSH.	
Camelina oil *	34	3	CEL.	
Camphor oil (light)	18		CPO.	
Canola oil, see Oil, edible: Repeseed, (low erucic acid containing less than 4% free fatty acids).	34			ORO (ORP).
epsilon-Caprolactam (molten or aqueous solutions) *	22	3	CLU	CLS.
Caramel solution	43		CML.	
Carbolic oil	21		CBO.	
Carbon dioxide, *liquefied*	0	1	CDO	CDH/CDQ.
Carbon dioxide (high purity)	0	1	CDH	CDO/CDQ.
Carbon dioxide (reclaimed quality)	0	1	CDQ	CDH/CDO.
Carbon disulfide	38		CBB.	
Carbon tetrachloride	36	2	CBT	CBU.
Cashew nut shell oil (untreated), see Oil, misc: Cashew nut shell (untreated).	4			OCN.
Castor oil, see Oil, edible: Castor	34			OCA (VEO).
Catoxid feedstock	36	2	CXF.	
Caustic potash solution	5	2	CPS.	
Caustic soda solution	5	2	CSS.	
Cesium formate solution *	34	3	CSM.	
Cetyl alcohol, see Alcohols (C13+)	20			ALY (ASY/AYL).
Cetyl/Eicosyl methacrylate mixture	14	1	CEM.	
Cetyl/Stearyl alcohol, *see* Alcohols (C13+)	20			ALY (ASY/AYL).
Chlorinated paraffins (C10-C13)	36		CLH	CLG/CLJ/CLQ.
Chlorinated paraffins (C14-C17) (with 50% Chlorine or more, and less than 1% C13 or shorter chains *).	36	3	CLJ	CLG/CLH/CLQ.
Chlorinated paraffins (C14-C17) (with 52% Chlorine)	36		CLQ	CLG/CLH/CLJ.
Chlorinated paraffins (C18+) with any level of chlorine	36		CLG	CLH/CLJ.
Chlorine	0	1	CLX.	
Chloroacetic acid (80% or less *)	4	3	CHM	CHL/MCA.
Chlorobenzene	36		CRB.	
Chlorodifluoromethane (*monochlorodifluoromethane*)	36		MCF.	
2-Chloro-4-ethylamino-6-isopropylamino-5-triazine solution	0	1	CET.	
Chloroform	36		CRF.	
Chlorohydrins (crude *)	17	3	CHD.	
4-Chloro-2-methylphenoxyacetic acid, dimethylamine salt solution.	9		CDM.	
o-Chloronitrobenzene	42		CNO	CNP.
1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one	18	2	CDP.	
2- or 3-Chloropropionic acid	4		CPM	CLA/CLP.
Chlorosulfonic acid	0	1	CSA.	
m-Chlorotoluene *	36	3	CTM	CHI/CRN/CTO.
o-Chlorotoluene *	36	3	CTO	CHI/CRN/CTM.
p-Chlorotoluene *	36	3	CRN	CHI/CTM/CTO.
Chlorotoluenes (mixed isomers) *	36	3	CHI	CRN/CTM/CTO.
Choline chloride solution	20		CCO.	
Citric acid (70% or less *)	4	3	CIS	CIT.
Clay slurry	43		CLY.	
Coal slurry	43		COG	COA.
Coal tar	33		COR	OCT.
Coal tar crude bases	33		CTB.	
Coal tar distillate, see Naphtha: Coal tar solvent	33		CDL	NCT (CTU).
Coal tar naphtha solvent, see Naphtha: Coal tar solvent	33			NCT (CDL/CTU).
Coal tar pitch (molten *)	33	3	CTP.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Cocoa butter, see Oil, edible: Cocoa butter	34			OCB (VEO).
Coconut oil, see Oil, edible: Coconut	34			OCC (VEO).
Coconut oil, fatty acid, see Oil, misc: Coconut fatty acid	34	2		CFA.
Coconut oil, fatty acid methyl ester, see Oil, misc: Coconut fatty acid methyl ester*.	34	3		OCM.
Copper salt of long-chain (C17+) alkanoic acid	34		CUS	CFT.
Copper salt of long-chain (C3-C16) fatty acid	34		CFT	CUS.
Corn oil, see Oil, edible: Corn	34			OCO (VEO).
Cotton seed oil, see Oil, edible: Cotton seed	34			OCS (VEO).
Cottonseed oil, fatty acid	34		CFY.	
Creosote	21	2	CCW	CCT/CWD.
Creosote (coal tar*)	21	2, 3	CCT	CCW.
Creosote (wood tar*)	21	2, 3	CWD	CCT/CCW.
Cresols (all isomers*)	21	3	CRS	CFO/CFP/CRL/CRO/CSC/CSO.
Cresols with less than 5% Phenol, see Cresols (all isomers)	21		CFO	CRS (CFP/CRL/CRO/CSO).
Cresols with 5% or more Phenol, see Phenol	21		CFP	PHN (CFO/CRL/CRO/CRS/CSO).
Cresylate spent caustic, see Cresylic acid, sodium salt solution	5		CSC	CYD.
Cresylic acid, dephenolized	21		CAD	CRY/CYN.
Cresylic acid, sodium salt solution	5		CYD	CSC.
Cresylic acid with 5% or more phenol	21		CYN	CAD/CRY.
Cresylic acid tar	21		CRX.	
Crotonaldehyde	19	2	CTA.	
Crude isononylaldehyde, see Isononyldehyde (crude)	19			INC.
Crude isopropanol, see Isoproyl alcohol, crude	20			IPB (IPA/PAL).
Crude piperazine, see Piperazine, crude	7			PZC (PPZ/PIZ).
Cumene, see Propylbenzene (all isomers)	32		CUM	AKD (PBY/PBZ).
1,5,9-Cyclododecatriene	30		CYT.	
Cycloheptane	31		CYE.	
Cyclohexane	31		CHX.	
Cyclohexanol	20		CHN.	
Cyclohexanone	18	2	CCH.	
Cyclohexanone/Cyclohexanol mixture	18	2	CYX.	
Cyclohexyl acetate	34		CYC.	
Cyclohexylamine	7		CHA.	
1,3-Cyclopentadiene dimer (molten*)	30	3	CPD	DPT/DPV.
Cyclopentadiene/Styrene/Benzene mixture	30		CSB.	
Cyclopentane	31		CYP.	
Cyclopentene	30		CPE.	
p*-Cymene	32		CMP.	
Decahydronaphthalene	33		DHN.	
Decaldehyde	19		DAY	IDA/DAL.
Decane (all isomers), see n-Alkanes (C10+) (all isomers)	31		DCC	ALV (ALJ).
Decanoic acid	4		DCO	NEA.
Decene	30		DCE.	
Decyl acetate	34		DYA.	
Decyl acrylate	14		DAT	IAI/DAR.
Decyl alcohol (all isomers*)	20	2, 3	DAX	ISA/DAN.
Decyl/Dodecyl/Tetradecyl alcohol mixture*	20	3	DYO	DAN/DAX/DDN/ISA.
Decylbenzene, see Alkyl(C9+) benzenes	32		DBZ	AKB.
Decyloxytetrahydrothiophene dioxide	0	1	DHT.	
Detergent alkylate	32		DKY	AKB/DBZ/DDB/TDB/TRB/UDB.
Dextrose solution, see Glucose solution	43		DTS	GLU.
Diacetone alcohol	20	2	DAA.	
Dialkyl(C10-C14) benzenes, see Alkyl(C9+) benzenes	32		DAB	AKB.
Dialkyl(C8-C9) diphenylamines	9		DAQ.	
Dialkyl(C7-C13) phthalates	34		DAH.	
Including:				
Di-(2-ethylhexyl) phthalate.				
Diheptyl phthalate.				
Dihexyl phthalate.				
Diisooctyl phthalate.				
Diisodecyl phthalate.				
Diisononyl phthalate.				
Dinonyl phthalate.				
Dioctyl phthalate.				
Ditridecyl phthalate.				
Diundecyl phthalate.				

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Dialkyl (C9-C10) phthalates, see Dialkyl (C7-C13) phthalates	34		DLK	DLH (DAP/DHL/DHP/DID/DIE/DIF/DIN/DIO/DIT/DOP/DPA/DTP/DUP).
Dialkyl thiophosphates sodium salts solution *	34	3	DYH.	
Dibromomethane	36		DBH.	
Dibutylamine	7		DBA.	
Dibutyl carbinol, see Nonyl alcohol (all isomers)	20			NNS (DBC/NNI/NNN).
Dibutyl hydrogen phosphonate	34		DHD.	
Dibutylphenols	21		DBT	DBV/DBW.
2,6-Di-tert-butylphenol *	21	3	DBW	DBF/DBT/DBV.
Dibutyl phthalate	34		DPA	DIT.
Dibutyl terephthalate *	34	3	DYE.	
Dichlorobenzene (all isomers *)	36	3	DBX	DBM/DBO/DBP.
3,4-Dichloro-1-butene	36		DCD	DCB.
Dichlorodifluoromethane	36		DCF.	
1,1-Dichloroethane	36	2	DCH.	
Dichloroethyl ether *	41	3	DYR	DEE.
1,6-Dichlorohexane	36		DHX.	
2,2′-Dichloroisopropyl ether	41		DCI.	
Dichloromethane	36	2	DCM.	
2,4-Dichlorophenol	21		DCP.	
2,4-Dichlorophenoxyacetic acid/Diethanolamine salt solution	43		DDE.	
2,4-Dichlorophenoxyacetic acid/Dimethylamine salt solution (70% or less) *.	0	1, 2, 3	DDA	DAD/DSX.
2,4-Dichlorophenoxyacetic acid/Triisopropanolamine salt solution	43	2	DTI.	
1,1-Dichloropropane	36		DPB	DPC/DPL/DPP/DPX.
1,2-Dichloropropane *	36	3	DPP	DPB/DPC/DPL/DPX.
1,3-Dichlorpropane	36		DPC	DPB/DPL/DPP/DPX.
Dichloropropene (all isomers)	15		DCW	DPF/DPU.
1,3-Dichloropropene	15			DCW/DPF.
Dichloropropene/Dichloropropane mixtures	15		DMX	DCW/DPB/DPC/DPL/DPP/DPU/DPX.
2,2-Dichloropropionic acid	4		DCN.	
Dicyclopentadiene, see 1,3-Cyclopentadiene dimer (molten)	30		DPT	CPD (DPV).
Dicyclopentadiene, Resin Grade, 81-89% *	30	3	DPV	CPD/DPT.
Diethanolamine	8		DEA.	
Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Diethanolamine salt solution.	43		DZZ	DDE.
Diethylamine	7		DEN.	
Diethylaminoethanol	8		DAE.	
2,6-Diethylaniline	9		DMN	DIY.
Diethylbenzene	32		DEB.	
Diethylene glycol	40	2	DEG.	
Diethylene glycol butyl ether, see Poly(2-8) alkylene glycol monoalkyl(C1-C6) ether.	40		DME	PAG.
Diethylene glycol butyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate.	34		DEM	PAF.
Diethylene glycol dibutyl ether	40		DIG.	
Diethylene glycol diethyl ether	40		DGS.	
Diethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether.	40		DGE	PAG.
Diethylene glycol ethyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetates.	34		DGA	PAF.
Diethylene glycol n-hexyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		DHE	PAG.
Diethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		DGM	PAG.
Diethylene glycol methyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate.	34		DGR	PAF.
Diethylene glycol phenyl ether	40		DGP.	
Diethylene glycol phthalate	34		DGL.	
Diethylene glycol propyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		DGO	PAG.
Diethylenetriamine	7	2	DET.	
Diethylenetriaminepentaacetic acid, pentasodium salt solution	43		DYS.	
Diethylethanolamine, see Diethylaminoethanol	8			DAE.
Diethyl ether	8		EET.	
Diethyl hexanol, see Decyl alcohol (all isomers)	20			DAX.
Di-(2-ethylhexyl) adipate	34		DEH.	
Di-(2-ethylhexyl) phosphoric acid	1		DEP.	
Di-(2-ethylhexyl) phthalate, see Dialkyl (C7-C13) phthalate	34		DIE	DAH.

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Di-(2-ethylhexyl) terephthalate	34		DHH.	
Diethyl phthalate	34		DPH.	
Diethyl sulfate	34		DSU.	
Diglycidyl ether of Bisphenol A	41		BDE.	
Diglycidyl ether of Bisphenol F	41		DGF.	
Diheptyl phthalate, see Dialkyl (C7-C13) phthalate	34		DHP	DAH.
Di-n-hexyl adipate	34		DHA.	
Dihexyl phthalate	34		DHL.	
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution	5		DDH.	
Diisobutylamine	7		DBU.	
Diisobutyl carbinol, see Nonyl alcohol (all isomers)	20		DBC	NNS.
Diisobutylene	30		DBL.	
Diisobutyl ketone	18		DIK.	
Diisobutyl phthalate	34		DIT	DPA.
Diisodecyl phthalate, see Dialkyl (C7-C13) phthalates	34		DID	DAH.
Diisononyl adipate	34		DNY.	
Diisononyl phthalate, see Dialkyl (C7-C13) phthalates	34	2	DIN	DAH.
Diisooctyl phthalate, see Dialkyl (C7-C13) phthalate	34		DIO	DAH/(DIE/DOP).
Diisopropanolamine	8		DIP.	
Diisopropylamine	7		DIA	DNA.
Diisopropylbenzene (all isomers)	32		DIX.	
Diisopropylnaphthalene	32		DII.	
N,N-Dimethylacetamide	10		DAC	DLS.
N,N-Dimethylacetamide solution (40% or less*)	10	3	DLS	DAL.
Dimethyl adipate	34		DLA.	
Dimethylamine	7		DMA	DMC/DMG/DMY.
Dimethylamine solution (45% or less*)	7	3	DMG	DMA/DMC/DMY.
Dimethylamine solution (greater than 45% but not greater than 55%)*.	7	3	DMY	DMA/DMC/DMG.
Dimethylamine solution (greater than 55% but not greater than 65%)*.	7	3	DMC	DMA/DMG/DMY.
Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution, see 4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution.	9			CDM.
Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution (70% or less).	9		DAD	DDA (DSX).
2,6-Dimethylaniline	9		DMM	DDL.
Dimethylbenzene, see Xylenes	32			XLX/XLM/XLO/XLP.
N,N-Dimethylcyclohexylamine	7		DXN.	
Dimethyl disulfide*	0	1, 2, 3	DSK.	
Dimethyldodecylamine, see N,N-Dimethyldodecylamine	7			DDY.
N,N-Dimethyldodecylamine	7		DDY.	
Dimethylethanolamine	8		DMB.	
Dimethyl ether	41		DIM.	
Dimethylformamide	10		DMF.	
Dimethyl glutarate	34		DGT.	
Dimethyl hydrogen phosphite	34	2	DPI.	
Dimethyl octanoic acid	4		DMO.	
Dimethyl phthalate	34		DTL.	
Dimethylpolysiloxane	34		DMP.	
2,2-Dimethylpropane-1,3-diol (molten or solution*)	20	3	DDI.	
Dimethyl succinate	34		DSE.	
Dinitrotoluene (molten*)	42	3	DNM	DNL/DNU/DTT.
Dinonyl phthalate, see Dialkyl (C7-C13) phthalates	34		DIF	DAH.
Dioctyl phthalate, see Dialkyl (C7-C13) phthalates	34		DOP	DAH (DIE/DIO).
1,4-Dioxane	41		DOX.	
Dipentene	30		DPN.	
Diphenyl	32		DIL.	
Diphenylamine (molten)	9		DAG	DAM.
Diphenylamine, reaction product with 2,2,4-trimethylpentene	9		DAK.	
Diphenylamines, alkylated	9		DAJ.	
Diphenyl/Diphenyl ether mixtures	33		DDO.	
Diphenyl ether	41		DPE.	
Diphenyl ether/Biphenyl ether mixture, see Diphenyl/Diphenyl ether mixture.	41			DDO.
Diphenyl ether/Diphenyl phenyl ether mixture	41		DOB.	
Diphenylmethane diisocyanate	12		DPM.	
Diphenylol propane-Epichlorohydrin resins	0	1	DPR.	
Diphenyl oxide, see Diphenyl ether	40			DPE.
Di-n-propylamine	7		DNA	DIA.
Dipropylene glycol	40		DPG.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Dipropylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		DBG	PAG.
Dipropylene glycol dibenzoate	34		DGY.	
Dipropylene glycol methyl ether, see Poly (2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		DPY	PAG.
Distillates, flashed feed stocks	33		DFF.	
Distillates, straight run	33		DSR.	
Di-tert-butyl phenol	21		DBF	DBT/DBV/DBW.
2,4-Di-tert-butyl phenol	21		DBV	DBF/DBT/DBW.
2,6-Di-tert-butyl phenol	21		DBW	DBF/DBT/DBV.
Dithiocarbamate ester (C7-C35)	34		DHO.	
Ditridecyl adipate	34		DTY.	
Ditridecyl phthalate, see Dialkyl (C7-C13) phthalate	34		DTP	DAH.
Diundecyl phthalate, see Dialkyl (C7-C13) phthalates	34		DUP	DAH.
Dodecane (all isomers), see Alkanes (C10+) (all isomers)	31		DOF	ALV (ALJ/DOC).
tert-Dodecanethiol	0	1, 2	DDL	LRM.
Dodecene (all isomers*)	30	3	DOZ	DDC/DOD.
Dodecanol (all isomers), see Dodecyl alcohol (all isomers)	20	2	DDN	LAL.
2-Dodecenylsuccinic acid, dipotassium salt solution	34		DSP.	
Dodecyl alcohol (all isomers)	20		DDN	ASK/ASY/LAL.
Dodecylamine/Tetradecylamine mixture	7		DTA.	
Dodecylbenzene, see Alkyl (C9+) benzenes	32		DDB	AKB.
Dodecyldimethylamine/Tetradecyldimethylamine mixture	7		DOT.	
Dodecyl diphenyl ether disulfonate solution	43		DTA.	
Dodecyl hydroxypropyl sulfide	0	1	DOH.	
Dodecyl methacrylate	14		DDM.	
Dodecyl/Octadecyl methacrylate mixture	14		DOM	DDM.
Dodecyl/Pentadecyl methacrylate mixture	14		DDP.	
Dodecyl phenol	21		DOL.	
Dodecyl xylene	32		DXY.	
Drilling brines (containing Calcium, Potassium or Sodium salts)	43		DRL	DRB/DRS.
Drilling brines (containing Zinc salts)	43		DZB	DRB.
Drilling brines, including: Calcium bromide solution, Calcium chloride solution and Sodium chloride solution*.	43	3		DRS/DRL.
Drilling mud (low toxicity) (*if flammable or combustible*)	33		DRO	DRM/DRN/DRP.
Drilling mud (low toxicity) (*if non-flammable or non-combustible*)	43		DRP	DRM/DRN/DRO.
Epichlorohydrin	17		EPC.	
Epoxy resin	18		EPN.	
ETBE, see Ethyl tert-butyl ether	40			EBE.
Ethane	31		ETH.	
Ethanolamine	8		MEA.	
2-Ethoxyethanol, see Ethylene glycol monoalkyl ethers	40		EEO	EGC (EGE).
2-Ethoxyethyl acetate	34	2	EEA	EGA.
Ethoxylated alkyloxy alkyl amine	8		ELM.	
Ethoxylated alcohols, C11-C15, see the alcohol poylethoxylates	40			AEA/AEB/AED/AET/APV/APW/APX.
Ethoxylated long-chain (C16+) alkyloxyalkylamine	8		ELA.	
Ethoxylated tallow alkyl amine	7		TAY	TAG/TAR.
Ethoxylated tallow amine (>95%)*	7	3	TAR	TAG/TAY.
Ethoxylated tallow alkyl amine, glycol mixture	7		TAG	TAR/TAY.
Ethoxy triglycol, see Poly (2-8) alkylene glycol monoalkyl (C1-C6) ether.	40		ETG	PAG (ETR/TGE).
Ethoxy triglycol (crude)	40		ETR.	
Ethyl acetate	34	2	ETA.	
Ethyl acetoacetate	34		EAA.	
Ethyl acrylate	14	2	EAC.	
Ethyl alcohol	20	2	EAL.	
Ethylamine	7	2	EAM	EAN/EAO.
Ethylamine solution (72% or less*)	7	3	EAN	EAM/EAO.
Ethyl amyl ketone	18		EAK	ELK.
Ethylbenzene	32		ETB.	
Ethyl butanol	20		EBT.	
N-Ethyl-butylamine	7		EBA.	
Ethyl tert-butyl ether	41	2	EBE.	
Ethyl butyrate	34		EBR.	
Ethyl chloride	36		ECL.	
Ethyl cyclohexane	31		ECY.	
N-Ethylcyclohexylamine	7		ECC.	
2-Ethyl-2-(2,4-dichlorophenoxy) acetate	34		EDY.	
2-Ethyl-2-(2,4-dichlorophenoxy) propionate	34		EDP.	
S-Ethyl dipropylthiocarbamate*	34	3	ECB.	
Ethylene	30		ETL.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Ethylene carbonate	34		ECR.	
Ethylene chlorohydrin	20		ECH.	
Ethylene cyanohydrin	20	2	ETC.	
Ethylenediamine	7	2	EDA	EMX.
Ethylenediaminetetraacetic acid/tetrasodium salt solution	43		EDS.	
Ethylene dibromide	36		EDB.	
Ethylene dichloride	36	2	EDC.	
Ethylene glycol	20	2	EGL	EAG.
Ethylene glycol acetate	34		EGO.	
Ethylene glycol butyl ether, see Ethylene glycol monoalkyl ethers.	40		EGM	EGC.
Ethylene glycol tert-butyl ether, see Ethylene glycol monoalkyl ethers.	40		EGG	EGC.
Ethylene glycol butyl ether acetate	34		EMA.	
Ethylene glycol diacetate	34		EGY.	
Ethylene glycol dibutyl ether	40		EGB.	
Ethylene glycol ethyl ether, see Ethyl glycol monoalkyl ethers	40		EGE	EGC/EEO.
Ethylene glycol ethyl ether acetate, see 2-Ethoxyethyl acetate	34	2	EGA	EEA.
Ethylene glycol hexyl ether, see Ethylene glycol monoalkyl ethers.	40		EGH	EGC.
Ethylene glycol isobutyl ether, see Ethylene glycol monoalkyl ethers.	40			EGC (EGG/EGM).
Ethylene glycol isopropyl ether, see Ethylene glycol monoalkyl ethers.	40		EGI	EGN/EGP.
Ethylene glycol methyl butyl ether, see Ethylene glycol monoalkyl ethers.	40		EMB	EGC.
Ethylene glycol methyl ether, see Ethylene glycol monoalkyl ethers.	40		EME	EGC.
Ethylene glycol methyl ether acetate	34		EGT.	
Ethylene glycol monoalkyl ethers *Including:* *Ethylene glycol butyl ether.* *Ethylene glycol isobutyl ether.* *Ethylene glycol methyl butyl ether.* *Ethylene glycol tert-butyl ether.* *Ethylene glycol ethyl ether.* *Ethylene glycol hexyl ether.* *Ethylene glycol methyl ether.* *Ethylene glycol propyl ether.* *Ethylene glycol iso-propyl ether.*	40	2	EGC.	
Ethylene glycol phenyl ether	40		EPE.	
Ethylene glycol phenyl ether/Diethylene glycol phenyl ether mixture.	40		EDX.	
Ethylene glycol propyl ether, see Ethylene glycol monoalkyl ethers.	40		EGP	EGC/EGI/EGN.
Ethylene glycol iso-propyl ether, see Ethylene glycol monoalkyl ethers.	40		EGI	EGC/EGN/EGP.
Ethylene glycol n-propyl ether, see Ethylene glycol monoalkyl ethers.	40		EGN	EGC (EGI/EGP).
Ethylene oxide	0	1	EOX.	
Ethylene oxide/Propylene oxide mixture	16		EPF	EPM.
Ethylene oxide/Propylene oxide mixture with an Ethylene oxide content not more than 30% by mass*.	16	3	EPM	EPF.
Ethylene-Propylene copolymer (in liquid mixtures)	31		EPY.	
Ethylene-Vinyl acetate copolymer (emulsion)	43		ECV.	
Ethyl ether, see Diethyl ether	41			EET.
Ethyl-3-ethoxypropionate	34		EEP.	
2-Ethylhexaldehyde, see Octyl aldehydes	19		EHA	OAL (OLX).
2-Ethylhexanoic acid, see Octanoic acid	4		EHO	OAY (OAA).
2-Ethylhexanol, see Octanol	20		EHX	OCA (OTA).
2-Ethylhexyl acrylate	14		EAI.	
2-Ethylhexylamine	7		EHM.	
Ethyl hexyl phthalate	34		EHE.	
Ethyl hexyl tallate	34		EHT.	
2-Ethyl-2-(hydroxymethyl) propane-1,3-diol, (C8-C10) ester	34		EHD.	
Ethyl lactate	34		ELT.	
Ethylidene norbornene	30	2	ENB.	
Ethyl methacrylate	14		ETM.	
N-Ethylmethylallylamine	7		EML.	
Ethyl propionate	34		EPR.	
2-Ethyl-3-propylacrolein	19	2	EPA.	
Ethyl toluene	32		ETE.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Fatty acids (saturated, C13+)	34		FAB	FAD.
Fatty acids (saturated, C14+), see Fatty acids (saturated, C13+)	34		FAD	FAB.
Fatty acid methyl esters *	4	3	FME.	
Fatty acids, (C8-C10) *	4	3	FDS.	
Fatty acids, (C12+) *	4	3	FDT	FAB/FAD/FAI/FDI.
Fatty acids, (C16+) *	4	3	FDI.	
Fatty acids, essentially linear (C6-C18) 2-ethylhexyl ester *	4	2, 3	FAE.	
Ferric chloride solution	1		FCS	FCL.
Ferric hydroxyethylethylenediaminetriacetic acid, trisodium salt solution.	43	2	FHX	STA.
Ferric nitrate/Nitric acid solution	3	2	FNN.	
Fish oil, see Oil, edible: Fish	34	2		OFS (AFN).
Fish solubles (*water based fish meal extracts*)	43		FSO.	
Fluorosilicic acid (20-30%) in water solution *	1	3	FSK	FSJ/FSL/HFS.
Fluorosilicic acid (30% or less)	1		FSJ	FSK/FSL/HFS.
Formaldehyde (50% or more), Methanol mixtures	19	2	MTM.	
Formaldehyde solutions (37%–50%)	19	2	FMS	FMG/FMR.
Formaldehyde solutions (45% or less *)	19	2, 3	FMR	FMG/FMS.
Formamide	10		FAM.	
Formic acid	4	2	FMA	FMB.
Formic acid (85% or less)	19	2	FMB	FMA.
Formic acid (over 85%) *	4	2, 3	FMD.	
Formic acid mixture (containing up to 18% Propionic acid and up to 25% Sodium formate) *.	4	2, 3	FMC	FMA/FMB.
Fructose solution	43		FTS	FRT.
Fumaric adduct of Rosin, water dispersion	43		FAR.	
Furfural	19		FFA.	
Furfuryl alcohol	20	2	FAL.	
Gas oil, cracked, see Oil, misc: Gas, cracked	33			GOC.
Gasoline blending stock, alkylates	33		GAK.	
Gasoline blending stock, reformates	33		GRF.	
Gasolines:				
Automotive (containing *not over 4.23 grams lead per gal.*)	33		GAT.	
Aviation (containing *not over 4.86 grams lead per gal.)*	33		GAV	AVA.
Casinghead (*natural*)	33		GCS.	
Polymer	33		GPL.	
Straight run	33		GSR.	
Gasolines: Pyrolysis (containing Benzene), see Pyrolysis gasoline (containing Benzene).	33		GPY	PYG.
Glucitol/Glycerol blend propoxylated (containing less than 10% amines) *.	40	3	GGA.	
Glucose solution	43		GLS	DTS.
Glutaraldehyde solutions (50% or less)	19		GTA.	
Glycerine	20	2	GCR.	
Glycerine (83%)/Dioxanedimethanol (17%) mixture	20		GDN	GDM.
Glycerol, see Glycerine	20			GCR.
Glycerol ethoxylated	40		GXA.	
Glycerol monooleate	20		GMO.	
Glycerol polyalkoxylate	40		GPA.	
Glycerol propoxylated *	40	3	GXP.	
Glycerol, propoxylated and ethoxylated *	40	3	GXE.	
Glycerol/Sucrose blend propoxylated and ethoxylated *	40	3	GSB.	
Glyceryl triacetate	34		GCT.	
Glycidyl ester of tertiary carboxylic acid, see Glycidyl ester of C10 trialkyl acetic acid.	34		GLT	GLU.
Gylcidyl ester of tridecyl acetic acid, see Glycidyl ester of C10 trialkyl acetic acid.	34		GLT	GLU.
Glycidyl ester of C10 trialkyl acetic acid	34		GLU	GLT.
Glycidyl ester of Versatic acid, see Gylcidyl ester of C10 trialkyl acetic acid.	34		GLT	GLU.
Glycine, sodium salt solution	7		GSS.	
Glycol mixture, crude	20		GMC.	
Glycol diacetate, see Ethylene glycol diacetate	34			EGY.
Glycolic acid solution (70% or less *)	4	3	GLC.	
Glycol triacetate, see Glyceryl triacetate	34			GCT.
Glyoxal solution (40% or less *)	19	3	GOS.	
Glyoxylic acid solution (50% or less *)	4	3	GAC.	
Glyphosate solution (not containing surfactant)	7		GIO	RUP.
Groundnut oil, see Oil, edible: Groundnut	34			OGN (VEO).
Heptadecane (all isomers), see Alkanes (C10+) (all isomers)	31			ALV (ALJ).
Heptane (all isomers), see Alkanes (C6-C9)	31		HMX	ALK(HPI/HPT).
n-Heptanoic acid	4		HEN	HEP.

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Heptanol (all isomers *)	20	3	HTX	HTN.
Heptene (all isomers *)	30	3	HPX	THE.
Heptyl acetate	34		HPE.	
Heptylbenzenes, see Alkyl (C3-C4) benzenes	32			AKD.
Herbicide (C15–H22–NO2-Cl), see Metolachlor	34			MCO.
Hexadecanol, see Alcohols (C13+)	20			ALY (ASY/AYL).
1-Hexadecylnaphthalene/1,4-bis(Hexadecyl)naphthalene mixture	32		HNH	HNI.
1-n-Hexadecylnaphthalene (90%)/1,4-di-n-(Hexadecyl)naphthalene (10%).	32		HNI	HNH.
Hexaethylene glycol, see Polyethylene glycol	20		HMG	PEG.
Hexamethylenediamine adipate solution	43		HAN	HAM.
Hexamethylenediamine adipate (50% in water)	43		HAM	HAN.
Hexamethylenediamine (molten *)	7	3	HME	HMD/HMC.
Hexamethylenediamine solution	7		HMC	HMD/HME.
Hexamethylene diisocyanate	12		HMS	HDI.
Hexamethylene glycol	20		HMG	HXG.
Hexamethyleneimine	7		HMI.	
Hexamethylenetetramine solutions	7		HTS	HMT.
1,6-Hexanediol, distillation overheads *	4	2, 3	HDO.	
Hexanoic acid	4		HXO.	
Hexanol	20		HXM	HEW/HEZ/HXN.
Hexene (all isomers *)	30	3	HEX	HXE/HXT/HXU/HXV/MPN/MTN.
Hexyl acetate	34		HAE.	
Hexylbenzenes, see Alkyl (C3-C4) benzenes	32			AKD.
Hexylene glycol, see Hexamethylene glycol	20		HXG	HMG.
Hog grease, see Lard	34			LRD.
Hydrochloric acid	1		HCL.	
Hydrofluorosilicic acid (25% or less), see Fluorosilicic acid (30% or less).	1			FSJ(FSK/FSL/HFS).
Hydrogenated starch hydrolysate *	0	1, 3	HSH.	
bis(Hydrogenated tallow alkyl)methyl amines	7		HTA.	
Hydrogen peroxide solutions (over 8% but not over 60% by mass) *.	0	1,3	HPN	HPO/HPS.
Hydrogen peroxide solutions (over 60% but not over 70% by mass *).	0	1, 3	HPS	HPN/HPO.
alpha-Hydro-omega-hydroxytetradeca(oxytetramethylene)	40		HTO	PYS/PYT.
2-Hydroxyethyl acrylate	14	2	HAI.	
N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution.	43		HET.	
2-Hydroxy-4-(methylthio)butanoic acid	4		HBA.	
Hydroxy terminated polybutadiene, see Polybutadiene, hydroxy terminated.	31			PHT.
Illipe oil, see Oil, edible: Illipe	34			ILO (VEO).
Isoamyl alcohol *	20	3	IAA	AAI/AAL/AAN/APM/ASE.
Isobutyl alcohol *	20	2, 3	IAL	BAN/BAS/BAT/BAY.
Isobutyl formate *	34	3	BFI	BFN/BFO.
Isobutyl methacrylate *	14	3	BMI	BMH/BMN.
Isononylaldehyde (crude)	19		INC.	
Isophorone	18	2	IPH.	
Isophoronediamine	7		IPI.	
Isophorone diisocyanate	12		IPD.	
Isoprene (all isomers)	30		IPR.	
Isoprene (part refined)	30		IPS	IPR/ISC.
Isoprene concentrate (Shell)	30		ISC.	
Isopropanolamine *	8	3	MPA	IPF/PAX/PLA.
Isopropanolamine solution *	8	3	PAI	MPA/PAY/PLA/PRG.
Isopropyl acetate *	34	3	IAC	PAT.
Isopropyl alcohol *	20	2, 3	IPA	IPB/PAL.
Isopropylamine *	7	3	IPP	IPO/IPQ/PRA.
Isopropylamine (70% or less) solution *	7	3	IPQ	IPO/IPP/PRA.
Isopropylbenzenes, see Alkyl (C3-C4) benzenes	32			AKC(CUM/PBY/PBZ).
Isopropylcyclohexane *	31	3	IPX.	
Isopropyl ether *	41	3	IPE	PRL/PRN.
Jatropha oil, see Oil, misc: Jatropha	34			JTO.
Jet fuels:				
JP–4	33		JPF.	
JP–5	33		JPV.	
JP–8	33		JPE.	
Kaolin clay solution	43		KLC	KLS.
Kaolin slurry	43		KLS	KLC.
Kerosene	33		KRS.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Kraft black liquor	5		KBL	KPL.
Kraft pulping liquors (free alkali content 3% or more) (*Black, Green, or White*).	5		KPL	KBL.
Lactic acid	0	1	LTA.	
Lactonitrile solution (80% or less*)	37	3	LNI.	
Lard	34		LRD	OLD.
Latex, ammonia (1% or less*)-inhibited	30	3	LTX.	
Latex: Carboxylated Styrene-Butadiene copolymer; Styrene-Butadiene rubber*.	43	3	LCC	LCB/LSB.
Latex, liquid synthetic	43		LLS	LCB/LCC/LSB.
Lauric acid	34		LRA.	
Lauric acid methyl ester/Myristic acid methyl ester mixture	34		LMM.	
Lauryl polyglucose, see Alkyl(C12-C14) polyglucoside solution (55% or less).	43			AGM/LAP.
Lauryl polyglucose (50% or less), see Alkyl (C12-C14) polyglucoside solution (55% or less).	43		LAP	AMG.
Lecithin	34		LEC.	
Lignin liquor	43		LNL	ALG/CLL/LGA/LGM/LSL/SHC/SHP/SHQ/SLP.
Ligninsulfonic acid, magnesium salt solution*	43	3	LGM	LGA/LNL/LSL.
Ligninsulfonic acid, sodium salt solution, see Lignin liquor or Sodium lignosulfonate solution.	43		LGA	LNL or SLG.
d-Limonene, see Dipentene	30			DPN.
Linear alkyl (C12-C16) propoxyamine ethoxylate	8		LPE.	
Linseed oil, see Oil, misc: Linseed	34			OLS.
Liquefied Natural Gas, see Methane	34		LNG	MTH.
Liquid chemical wastes*	0	1, 3	LCW.	
Long-chain alkaryl polyether (C11-C20)	41		LCP.	
Long-chain alkaryl sulfonic acid (C16-C60)	0	1	LCS.	
Long-chain alkyl amine	7		LAA.	
Long-chain alkylphenate/Phenol sulfide mixture	21		LPS.	
Long-chain alkyl (C13+) salicylic acid	4		LAS.	
L-Lysine solution (60% or less*)	43	3	LYS.	
Magnesium chloride solution	0	1, 2	MGL.	
Magnesium hydroxide slurry	5		MHS.	
Magnesium long-chain alkaryl sulfonate (C11-C50)	34		MAS	MSE.
Magnesium long-chain alkyl phenate sulfide (C8-C20)	34		MPS.	
Magnesium long-chain alkyl salicylate (C11+)	34		MLS.	
Magnesium nitrate solution (66.7%)	43		MGP	MGN/MGO.
Magnesium nonyl phenol sulfide, see Magnesium long-chain alkyl phenate sulfide (C8-C20).	34			MPS.
Magnesium sulfonate, see Magnesium long-chain alkaryl sulfonate (C11-C50).	34		MSE	MAS.
Maleic anhydride	11		MLA.	
Maltitol solution*	0	1, 3	MTI	
Mango kernel oil, see Oil, edible: Mango kernel	34			MKO (VEO).
2-Mercaptobenzothiazol (in liquid mixture)	5		BTM	SMD.
Mercaptobenzothiazol, sodium salt solution	5		SMB	MBT.
Mesityl oxide	18	2	MSO.	
Metam sodium solution	7		MSS	SMD.
Methacrylic acid	4		MAD.	
Methacrylic acid—Alkoxypoly(alkylene oxide) methacrylate copolymer, sodium salt aqueous solution (45% or less)*.	20	3	MAQ.	
Methacrylic resin in ethylene dichloride	14		MRD.	
Methacrylonitrile	15	2	MET.	
Methane	31		MTH	LNG.
3-Methoxy-1-butanol	20		MTX.	
3-Methoxybutyl acetate	34		MOA.	
N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methyl chloroacetanilide, *see* Metolachlor.	34			MCO.
1-Methoxy-2-propyl acetate	34		MXP.	
Methoxy triglycol, see Poly (2-8) alkylene glycol monoalkyl (C1-C6) ether.	40		MTG	PAG (TGY).
Methyl acetate	34		MTT.	
Methyl acetoacetate	34		MAE.	
Methyl acetylene/Propadiene mixture	30		MAP.	
Methyl acrylate	14		MAM.	
Methyl alcohol	20	2	MAL.	
Methylamine solutions (42% or less*)	7	3	MSZ.	
Methylamyl acetate	34		MAC.	
Methylamyl alcohol	20		MAA	MIC.
Methyl amyl ketone	18		MAK.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
N-Methylaniline *	9	3	MAN.	
alpha-Methylbenzyl alcohol with Acetophenone (15% or less) *	20	3	MBA.	
Methyl bromide	36		MTB.	
Methyl butanol, see the amyl alcohols	20			AAI/AAL/AAN/APM/ASE/IAA.
Methyl butenol	20		MBL.	
Methyl butenes, see Pentene	30			PTX (AMW/AMZ/PTE).
Methyl tert-butyl ether	41	2	MBE.	
Methyl butyl ketone	18	2	MBB	MBK/MIK.
Methyl 3-(3,5 di-tert-butyl-4-hydroxyphenyl) propionate crude melt.	20		MYP.	
Methylbutynol	20		MBY	MHB.
Methyl butyrate	34		MBU.	
Methyl chloride	36		MTC.	
Methylcyclohexane	31		MCY.	
Methylcyclohexanemethanol (crude)	20		MYH.	
Methylcyclopentadiene dimer	30		MCK.	
Methylcyclopentadienyl manganese tricarbonyl *	0	1, 3	MCT	MCW.
Methylcyclopentadienyl manganese tricarbonyl (60–70%) in mineral oil.	0	1	MCW	MCT.
Methyl diethanolamine	8		MDE	MAB.
Methylene bridged isobtylenated phenols	21		MBP.	
Methylene chloride, see Dichloromethane	21			DCM.
2-Methyl-6-ethyl aniline	9		MEN.	
Methyl ethyl ketone	18	2	MEK.	
2-Methyl-5-ethyl pyridine	9		MEP.	
Methyl formate	34		MFM.	
N-Methylglucamine solution (70% or less *)	43	3	MGC.	
2-Methylglutaronitrile	37		MLN	MGN.
2-Methylglutaronitrile with 2-Ethylsuccinonitrile (12% or less) *	37	3	MGE	MLN.
Methyl heptyl ketone	18		MHK.	
2-Methyl-2-hydroxy-3-butyne	20		MHB	MBY.
Methyl isoamyl ketone, see Methyl amyl ketone	18		MAJ	MAK.
Methyl isobutyl carbinol, see Methyl amyl alcohol	20		MIC	MAA.
Methyl isobutyl ketone	18		MIK	MBB/MBK.
Methyl methacrylate	14		MMM.	
3-Methyl-3-methoxybutanol	20		MXB.	
3-Methyl-3-methoxybutyl acetate	34		MMB.	
Methyl naphthalene (molten *)	32	3	MNA.	
Methylolurea	19		MUT.	
2-Methyl pentane, see Hexane (all isomers)	31			HXS (ALK/HXA/IHA/NHX).
2-Methyl-1,5-pentanediamine	7		MPM.	
2-Methyl-1-pentene, see Hexene (all isomers)	30		MPN	HEX (HXE/HXT/HXU/HXV/MTN).
4-Methyl-1-pentene, see Hexene (all isomers)	30		MTN	HEX (HXE/HXT/HXU/HXV/MPN).
Methyl tert-pentyl ether, *see* tert-Amyl methyl ether	41			AYE.
2-Methyl-1,3-propanediol	20		MDL.	
Methyl propyl ketone	18		MKE.	
Methylpyridine, see the Methylpyridines	9		MPQ	MPE/MPF/MPR.
2-Methylpyridine *	9	3	MPR	MPE/MPF/MPQ.
3-Methylpyridine *	9	3	MPE	MPF/MPQ/MPR.
4-Methylpyridine *	9	3	MPF	MPE/MPQ/MPR.
N-Methyl-2-pyrrolidone	9	2	MPY.	
Methyl salicylate	34		MES.	
alpha-Methylstyrene	30		MSR.	
3-(Methylthio)propionaldehyde	19		MTP.	
Metolachlor	34		MCO.	
Microsillica slurry	4		MOS.	
Milk	43		MLK.	
Mineral spirits	33		MNS.	
Mixed C4 Cargoes	30		MIX.	
Molasses	20		MOL	MON.
Molasses residue (from fermentation)	0	1	MON	MOL.
Molybdenum polysulfide long-chain alkyl dithiocarbamide complex *.	0	1, 3	MOP.	
Monochlorodifluoromethane	36		MCF.	
Monoethanolamine, see Ethanolamine	8		MEA.	
Monoisopropanolamine, see Isopropanolamine	8			MPA (PLA/PLX).
Monoethylamine, see Methylamine	7			EAM (EAN/EAO).
Morpholine	7	2	MPL.	
Motor fuel anti-knock compound (containing lead alkyls)	0	1	MFA.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
MTBE, see Methyl tert-butyl ether	41			MBE.
Myrcene	30		MRE.	
Naphtha:				
Aromatic	33		NAR.	
Coal tar solvent	33		NCT.	
Heavy	33		NAG.	
Paraffinic	33		NPF.	
Petroleum	33		PTN.	
Solvent	33		NSV.	
Stoddard solvent	33		NSS.	
Varnish Makers' and Painters'	33		NVM.	
Naphthalene (molten *)	32	3	NTM.	
Naphthalene sulfonic acid-Formaldehyde copolymer, sodium salt solution.	0	1	NFS.	
Naphthalene sulfonic acid, sodium salt solution	34		NSB	NSA.
Naphthenic acid	4		NTI.	
Naphthenic acid, sodium salt solution	43		NTS.	
Neodecanoic acid	4		NEA	DCO/NAT.
Nitrating acid (mixture of Sulfuric and Nitric acids)	0	1	NIA.	
Nitric acid (70% and over) *	3	2, 3	NCE	NAC/NCD.
Nitric acid (less than 70%)	3	2	NCD	NAC/NCE.
Nitrilotriacetic acid, trisodium salt solution *	34	3	NCA.	
Nitrobenzene	42		NTB.	
o-Nitrochlorobenzene, see o-Chloronitrobenzene	42			CNO (CNP).
Nitroethane	42		NTE.	
Nitroethane(80%)/Nitropropane (20%) *	42	2, 3	NNL	NNM/NNO/NPM/NPN/NPP/NTE.
Nitroethane/1-Nitropropane (each 15% or more) mixture	42	2	NNO	NNL/NNM/NPM/NPN/NPP/NTE.
Nitrogen	0	1	NXX.	
Nitrophenol (mixed isomers)	42		NPX	NIP/NPH/NPX.
o-Nitrophenol (molten)	0	1, 2	NTP	NIP/NPH/NPX.
1-or 2-Nitropropane	42		NPM	NPN/NPP.
Nitropropane (60%)/Nitroethane (40%) mixture	42		NNM	NNL/NNO/NPM/NPN/NPP/NTE.
o- or p-Nitrotoluenes *	42	3	NIT	NIE/NTR/NTT.
Nonane (all isomers), see Alkanes (C6-C9)	31		NAX	ALK (NAN).
Nonanoic acid (all isomers)	4		NNA	NAI/NIN.
Nonanoic/Tridecanoic acid mixture	4		NAT	NAI/NIN/NNA.
Non-edible industrial grade palm oil, see Oil, misc: Palm, non-edible industrial grade.	34			OPB.
Nonene (all isomers)	30		NOO	NNE/NON/OAM/OFX/OFY.
Nonyl acetate	34		NAE.	
Non-noxious Liquid Substance, (12) n.o.s. Cat OS	0	1	NOL.	
Nonyl alcohol (all isomers)	20	2	NNS	ALR/DBC/NNI/NNN.
Nonylbenzene, see Alkyl(C9+)benzenes	32			AKB.
Nonyl methacrylate monomer	14		NMA.	
Nonyl phenol	21		NNP.	
Nonylphenol (48–62%)/Phenol (42–48%)/Dinonylphenol (1–10%) mixture.	21		NYL.	
Nonyl phenol poly(4+)ethoxylate, see Alkyl (C7-C11) phenol poly (4–12) ethoxylate.	40		NPE	APN.
Nonyl phenol sulfide (90% or less) solution, see Alkyl phenol sulfide (C8-C40).	34			AKS (NPS).
Noxious Liquid Substance, n.o.s. (NLS')	0	1	.	
1-Octadecanol, see Stearyl alcohol	20			SYL (ALY/ASY).
1-Octadecene, see the olefin or alpha-olefin entries	30			OAM/OFZ.
Octadecenoamide solution	10		ODD.	
Octadecenol, see Alcohols (C13+)	20			ALY (AYL/ASY/OYL).
Octamethylcyclotetrasiloxane *	34	3	OSA.	
Octane (all isomers), see Alkanes (C6-C9)	31		OAX	ALK (IOO/OAN).
Octanoic acid (all isomers)	4		OAY	EHO/OAA.
Octanol (all isomers)	20	2	OCX	EHX/OPA/OTA.
Octene (all isomers)	30	2	OTX	OAM/OFC/OFY/OFW/OTE.
n-Octyl acetate	34		OAF	OAE.
Octyl alcohol, see Octanol (all isomers)	20	2		OCX (EHX/IOA/OTA).
Octyl aldehydes	19		OAL	EHA/IOC//OLX.
Octylbenzenes, see Alkyl (C3-C4) benzenes	32			AKD.
Octyl decyl adipate	34		ODA.	
n-Octyl Mercaptan	34		OME.	
Octyl nitrates (all isomers), see Alkyl(C7-C9) nitrates	34	2	ONE	AKN.
Octyl phenol	21		OPH.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Octyl phthalate, see Dialkyl (C7-C13) phthalates	34			DAH (DIE/DIO/DLK/DOP).
Oil, edible:				
Beechnut	34		OBN	VEO.
Castor	34		OCA	VEO.
Cocoa butter	34		OCB	VEO.
Coconut	34	2	OCC	VEO.
Cod liver	34		OCL	AFN.
Corn	34		OCO	VEO.
Cotton seed	34		OCS	VEO.
Fish	34	2	OFS	AFN.
Groundnut	34		OGN	VEO.
Hazelnut	34		OHN	VEO.
Illipe	34		ILO	VEO.
Lard	34		OLD	AFN.
Maize, see Oil, edible: Corn	34			OCO (VEO).
Mango kernel *	34	3	MKO	
Nutmeg butter	34		ONB	VEO.
Olive	34		OOL	VEO.
Palm	34	2	OPM	VEO.
Palm kernel	34		OPO	VEO.
Palm kernel olein	34		PKO	VEO.
Palm kernel stearin	34		PKS	VEO.
Palm mid fraction	34		PFM	VEO.
Palm olein	34		PON	VEO.
Palm stearin	34		PMS	VEO.
Peanut	34		OPN	VEO.
Poppy	34		OPY	VEO.
Poppy seed	34		OPS	VEO.
Raisin seed	34		ORA	VEO.
Rapeseed (low erucic acid containing less than 4% free fatty acids).	34		ORO	ORP/VEO.
Rice bran	34		ORB	VEO.
Safflower	34		OSF	VEO.
Salad	34		OSL	VEO.
Sesame	34		OSS	VEO.
Shea butter	34		OSH	VEO.
Soya bean	34		OSB	VEO.
Sunflower, see Oil, edible Sunflower seed	34			OSN (VEO).
Sunflower seed	34		OSN	VEO.
Tucum	34		OTC	VEO.
Vegetable	34		OVG	VEO.
Walnut	34		OWN	VEO.
Oil, fuel:				
No. 1	33		OON.	
No. 1–D	33		OOD.	
No. 2	33		OTW.	
No. 2–D	33		OTD.	
No. 4	33		OFR.	
No. 5	33		OFV.	
No. 6	33		OSX.	
Oil, misc:				
Acid mixture from soybean, corn (maize) and sunflower oil refining.	34		AOM.	
Aliphatic	33		OML.	
Animal	34		OMA	AFN.
Aromatic	33		OMR.	
Camelina	34		OCI.	
Cashew nut shell (untreated)	4		OCN.	
Clarified	33		OCF.	
Coal	33		OMC.	
Coconut fatty acid	34	2	CFA.	
Coconut oil, fatty acid methyl ester	34		OCM.	
Cotton seed oil, fatty acid	34		CFY.	
Crude	33		OFA.	
Diesel	33		ODS.	
Disulfide	0	1	ODI.	
Gas, cracked	33		GOC.	
Gas, high pour	33		OGP.	
Gas, low pour	33		OGL.	
Gas, low sulfur	33		OGS.	
Heartcut distillate	33		OHD.	
Jatropha	34		JTO.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Lanolin	34		OLL	AFN.
Linseed	33		OLS.	
Lubricating	33		OLB.	
Mineral	33		OMN.	
Mineral seal	33		OMS.	
Motor	33		OMT.	
Neatsfoot	33		ONF	AFN.
Oiticica	34		OOI.	
Palm acid	34		PLM.	
Palm fatty acid distillate	34		PFD.	
Palm oil fatty acid methyl ester	34		OPE.	
Palm kernel acid	34		OPK.	
Palm kernel fatty acid distillate	34		PNG.	
Palm, non-edible industrial grade	34		OPB.	
Penetrating	33		OPT.	
Perilla	34		OPR.	
Pilchard	34		OPL	AFN.
Pine	33		OPI	PNL.
Rape seed fatty acid methyl esters*	34	3	ORP.	
Residual	33		ORL.	
Resin, distilled	34		ORR.	
Road	33		ORD.	
Rosin	33		ORN.	
Seal	34		OSE.	
Soapstock	34		OIS.	
Soyabean (epoxidized)	34		OSC.	
Soyabean fatty acid methyl ester	34			OST.
Spindle	33		OSD.	
Tall	34		OTL	OTI/OTJ.
Tall, crude	34	2	OTI	OTJ/OTL.
Tall, distilled	34	2	OTJ	OTI/OTL.
Tall, fatty acid	34	2	OTT.	
Tall fatty acid (resin acids less than 20%)	34	2	OTK	OTT.
Tall pitch	34		OTP.	
Transformer	33		OTF.	
Tung	34		OTG.	
Turbine	33		OTB.	
Vacuum gas oil	32		OVC.	
Oleamide solution, see Octadecenoamide solution	10			ODD.
Olefin-Alkyl ester copolymer (molecular weight 2000+)	34		OCP.	
Olefin mixture (C7-C9) C8 rich, stabilized*	30	3	OFC	OFW/OFY/OFX.
Olefin mixtures (C5-C7)*	30	3	OFX	OAM/OFC/OFW/OFX/OFZ.
Olefin mixtures (C5-C15)*	30	3	OFY	OAM/OFC/OFW/OFX/OFZ.
Olefins (C13+, all isomers)	30		OFZ	OAM/OFW.
alpha-Olefins (C6-C18) mixtures	30		OAM	OFC/OFW/OFX/OFY/OFZ.
Oleic acid	34		OLA.	
Oleum	0	1, 2	OLM	SAC/SFX.
Oleyl alcohol, see Alcohols (C13+)	20		OYL	ALY (ASY).
Oleylamine	7		OLY.	
Olive oil, see Oil, edible: Olive	34			OOL (VEO).
Orange juice (concentrated)*	0	1, 3	OJC	OJN.
Orange juice (not concentrated)*	0	1, 3	OJN	OJC.
Organomolybdenum amide	10		OGA.	
ORIMULSION, see Asphalt emulsion	33			ASQ.
Oxyalkylated alkyl phenol formaldehyde	33		OPF.	
Oxygenated aliphatic hydrocarbon mixture*	0	1, 3	OAH.	
Palm acid oil, see Oil, misc: Palm acid*	34	3		PLM.
Palm fatty acid distillate, see Oil, misc: Palm fatty acid distillate*	34	3		PFD.
Palm kernel acid oil, see Oil, misc: Palm kernel acid	34			PNO.
Palm kernel acid oil, methyl ester, see Oil, misc: Palm kernel acid, methyl ester.	34			PNF.
Palm kernel oil fatty acid distillate, see Oil, misc: Palm kernel fatty acid distillate.	34			PNG.
Palm kernel oil, see Oil, edible: Palm kernel	34			OPO (VEO).
Palm kernel olein, see Oil, edible: Palm kernel olein*	34	3		PKO (VEO).
Palm kernel stearin, see Oil, edible: Palm kernel stearin*	34	3		PKS (VEO).
Palm mid fraction, see Oil, edible: Palm mid fraction*	34	3		PFM (VEO).
Palm oil, see Oil, edible: Palm*	34	3		OPM (VEO).
Palm oil fatty acid methyl ester, see Oil, misc: Palm fatty acid methyl ester*.	34	3		OPE.
Palm olein, see Oil, edible: Palm Olein*	34	3		PON (VEO).
Palm stearin, see Oil, edible: Palm stearin	34			PMS (VEO).

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Parachlorobenzotrifluoride	32		PBF	
n-Paraffins (C10-C20), see n-Alkanes (C10+)	31		PFN	ALJ.
Paraffin wax, see Waxes: Paraffin *	31	3		WPF.
Paraldehyde	19		PDH.	
Paraldehyde-Ammonia reaction product	9		PRB.	
Pentachloroethane	36		PCE.	
Pentadecanol, see Alcohols (C13+)	20		PDC	ALY.
1,3-Pentadiene	30		PDE	PDN.
1,3-Pentadiene (greater than 50%), Cyclopentene and isomers, mixtures *.	30	3	PMM.	
Pentaethylene glycol, see Polyethylene glycols	20			PEG.
Pentaethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether.	40			PAG.
Pentaethylenehexamine	7		PEN	
Pentaethylenehexamine/Tetraethylenepentamine mixture	7		PEP.	
Pentane (all isomers)	31		PTY	IPT/PTA.
Pentanoic acid	4		POC..	
n-Pentanoic acid (64%)/2-Methyl butryic acid (36%) mixture	4		POJ	POC.
Pentasodium salt of Diethylenetriamine pentaacetic acid solution, see Diethylenetriamine pentaacetic acid, pentasodium salt solution.	43			DYS.
Pentene (all isomers)	30		PTX	PTE.
n-Pentyl propionate	34		PPE.	
Perchloroethylene	36	2	PER	TTE.
Petrolatum	33		PTL.	
Phenol	21	2	PHN	PNS.
Phenol solutions (2% or less)	43		PNS	PHN.
1-Phenyl-1-xylyl ethane	32		PXE.	
Phosphate esters	34		PZE.	
Phosphate esters, alkyl (C12-C14) amine	7		PEA.	
Phosphoric acid	1		PAC.	
Phosphorus, yellow or white	0	1	PPW	PPB/PPR.
Phosphosulfurized bicycle terpene	0	1	PBT.	
Phthalate based polyester polyol	0	1, 2	PBE.	
Phthalic anhydride (molten)	11		PAN.	
alpha-Pinene	30		PIO	PIB/PIN.
beta-Pinene	30		PIP	PIN/PIO.
Pine oil, see Oil, misc: Pine	33		PNL	OPI.
Piperazine (crude)	34		PZC	PPZ/PIZ.
Piperazine (70% or less)	30		PIZ	PPB/PPZ.
Piperylene concentrate	30		PIC	PDE/PDN.
Polyacrylic acid solution (40% or less)	43		PYA.	
Polyalkenyl succinic anhydride amine	7		PSN.	
Polyalkyl acrylate	14		PAY.	
Polyalky (C18-C22) acrylate in Xylene	14		PIX.	
Polyalkyl alkenamine succinimide, molybdenum oxysulfide	7		PSO.	
Polyalkylene glycols/Polyalkylene glycol monoalkyl ether mixtures.	40		PPX.	
Polyalkylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		PGB	PAG.
Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	40		PAG.	
Including:				
Diethylene glycol butyl ether.				
Diethylene glycol ethyl ether.				
Diethylene glycol n-hexyl ether.				
Diethylene glycol methyl ether.				
Diethylene glycol propyl ether.				
Dipropylene glycol butyl ether.				
Dipropylene glycol methyl ether.				
Polyalkylene glycol butyl ether.				
Polyethylene glycol monoalkyl ether.				
Polypropylene glycol methyl ether.				
Triethylene glycol butyl ether.				
Triethylene glycol ethyl ether.				
Triethylene glycol methyl ether.				
Tripropylene glycol methyl ether.				
Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate	34		PAF.	
Including:				
Diethylene glycol butyl ether acetate.				
Diethylene glycol ethyl ether acetate.				
Diethylene glycol methyl ether acetate.				

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Polyalkylene glycols/Polyalkylene glycol monoalkyl ethers mixtures.	40		PPX.	
Polyalkylene oxide polyol	20		PAO.	
Polyalkyl (C10-C20) methacrylate	14		PMT	PYY.
Polyalkyl methacrylate in mineral oil	14		PYY	PMT.
Polyalkyl(C10-C18) methacrylate/Ethylene-Propylene copolymer mixture.	14		PEM.	
Polyalpha olefins	31		PYO.	
Polyaluminum chloride solution	1		PLS.	
Polybutadiene, hydroxyl terminated	20		PHT.	
Polybutene	33		PLB.	
Polybutenyl succinimide	10		PBS.	
Polycarboxylic ester (C9+), see Ditridecyl adipate	34			DTY.
Poly(2+)cyclic aromatics	32		PCA.	
Polydimethylsiloxane, see Dimethylpolysiloxane	34			DMP.
Polyether, borated	41		PED.	
Polyether (molecular weight 1350+)	41		PYR.	
Polyether polyols	41		PEO.	
Polyethylene glycol	40		PEG.	
Polyethylene glycol dimethyl ether	40		PEF.	
Poly (ethylene glycol) methylbutenyl ether (MW > 1000)	40		PBN.	
Polyethylene glycol monoalkyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		PEE	PAG.
Polyethylene polyamines	7	2	PEB	PEY.
Polyethylene polyamines (more than 50% C5-C20 Paraffin oil) *	7	2,3	PEY	PEB.
Polyferric sulfate solution	34		PSS.	
Polyglycerine/Sodium salts solution (containing less than 3% Sodium hydroxide).	20	2	PGT	PGS.
Polyglycerol	20		PGL.	
Poly(iminoethylene)-graft-N-poly(ethyleneoxy) solution (90% or less) *.	7	3	PIG	PIM.
Polyisobutenamine in aliphatic (C10-C14) solvent	7		PIB	PIA.
Polyisobutenyl anhydride adduct	11		PBA.	
Polyisobutenyl succinimide	10		PIS.	
Poly(4+)isobutylene	30		PIL.	
Polyisobutylene succinic anhydride	11		PYS.	
Polymerized esters	34		PYM.	
Polymethylene polyphenyl isocyanate	12		PPI.	
Polyolefin (molecular weight 300+)	31		PMW	PLF.
Polyolefin amide alkeneamine (C17+)	33		POH	POD.
Polyolefin amide alkeneamine (C28+), see Polyolefin amide alkenamine (C17+).	33		POD	POH.
Polyolefin amide alkeneamine borate (C28-C250)	34		PAB.	
Polyolefin amide alkeneamine in mineral oil	33		PLK.	
Polyolefin amide alkeneamine/Molybdenum oxysulfide mixture	7		PMO.	
Polyolefin amide alkeneamine polyol	20		PAP.	
Polyolefinamine (C28-C250)	33		POM.	
Polyolefinamine in alkyl(C2-C4) benzenes	32		POF	POR.
Polyolefinamine in aromatic solvent *	32	3	POR	POF.
Polyolefin aminoester salts (molecular weight 2000+)	34		PAE.	
Polyolefin anhydride	11		PAR.	
Polyolefin ester (C28-C250)	34		POS.	
Polyolefin in mineral oil	30		PLF	PMW.
Polyolefin phenolic amine (C28-C250)	9		PPH.	
Polyolefin phosphorosulfide, barium derivative (C28-C250)	34		PPS.	
Poly (oxyalkylene) alkenyl ether (MW>1000)	41		PXY.	
Polyoxybutylene alcohol	41		PXA.	
Poly(20)oxyethylene sorbitan monooleate	34		PSM.	
Polyoxypropylenediamine (MW 2000)	7		PYD.	
Poly(5+)propylene	30		PLQ	PLP.
Polypropylene glycol	40		PGC.	
Polypropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether.	40		PGM	PAG.
Polysiloxane	34		PSX.	
Polysiloxane/White spirit, low (15–20%) aromatic	34		PWS.	
Potassium chloride solution	43		PCU	PCD/PSD.
Potassium chloride solution (10% or more)	43		PCS	PCD/PCU.
Potassium chloride solution (less than 26%)	43		PSD	CLM/DRL/PCS/PCU.
Potassium formate solutions	34		PFR.	
Potassium hydroxide solution, *see* Caustic potash solution	5	2		CPS/PTH.
Potassium oleate	34		POE.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Potassium polysulfide/Potassium thiosulfide solution (41% or less).	0	1	PYP	PSF/PTF.
Potassium salt of polyolefin acid	34		PSP.	
Potassium thiosulfate (50% or less)	43		PTF.	
Propane	31		PRP	LPG.
iso-Propanolamine, see Isopropanolamine	8			MPA (PAX/PLA).
n-Propanolamine	8		PLA	MPA/PAX.
2-Propene-1-aminium, N,N-dimethyl-N-2-propenyl-, chloride, homopolymer solution*.	0	1, 3	PLN.	
beta-Propiolactone*	18	3	PLT.	
Propionaldehyde	19		PAD.	
Propionic acid	4		PNA.	
Propionic anhydride	11		PAH.	
Propionitrile	37		PCN.	
n-Propoxypropanol, see Propylene glycol monoalkyl ether	40		PXP	PGE.
n-Propyl acetate	34		PAT	IAC.
n-Propyl alcohol	20	2	PAL	IPA.
n-Propylamine	7		PRA	IPO/IPP/IPQ.
iso-Propylamine solution, see Isopropylamine (70% or less) solution.	7			IPQ (IPO/IPP/PRA).
Propylbenzenes, see Alkyl (C3-C4) benzens	32		PBY	AKC (CUM/PBZ).
iso-Propyl cyclohexane, see Isopropylcyclohexane	34			IPX.
Propylene	30		PPL.	
Propylene-Butylene copolymer	30		PBP.	
Propylene carbonate	34		PLC.	
Propylene dimer	30		PDR.	
Propylene glycol	20	2	PPG.	
Propylene glycol n-butyl ether, see Propylene glycol monoalkyl ether.	40		PGD	PGE.
Propylene glycol ethyl ether, see Propylene glycol monoalkyl ether.	40		PGY	PGE.
Propylene glycol methyl ether, see Propylene glycol monoalkyl ether.	40		PME	PGE.
Propylene glycol methyl ether acetate	34		PGN.	
Propylene glycol monoalkyl ether *Including:* *n-Propoxypropanol.* *Propylene glycol n-butyl ether.* *Propylene glycol ethyl ether.* *Propylene glycol methyl ether.* *Propylene glycol propyl ether.*	40		PGE.	
Propylene glycol phenyl ether	40		PGP.	
Propylene glycol propyl ether, see Propylene glycol monoalkyl ether.				PGE.
Propylene oxide	16		POX.	
Propylene tetramer	30		PTT.	
Propylene trimer	30		PTR.	
Pseudocumene, see Trimethylbenzene (all isomers)	32			TMB/TMD/TME/TRE.
Pyridine	9		PRD.	
Pyridine bases, see Paraldehyde-Ammonia reaction product	9			PRB.
Pyrolysis gasoline (containing Benzene)*	32	3	PYG	GPY.
Rapeseed oil, see Oil, edible: Rapeseed	34			ORO (VEO).
Rapeseed oil (low erucic acid containing less than 4% free fatty acids), see Oil, edible: Rapeseed, (low erucic acid containing less than 4% free fatty acids)*.	34	3		ORO (VEO).
Rapeseed oil fatty acid methyl esters, see Oil, misc: Rapeseed fatty acid methyl esters*.	34	3		RSO.
Refrigerant gases	0	1	RFG.	
Resin oil, distilled, see Oil, misc: Resin, distilled*	33	3		ORR (ORS).
Rice bran oil, see Oil, misc: Rice bran	34			ORB.
Rosin, see Oil, misc: Rosin	33			ORN.
ROUNDUP	7		RUP	GIO.
Rum, see Alcoholic beverages	20			ABV.
Safflower oil, see Oil, edible: Safflower	34			OSF (VEO)
Sewage sludge	43		SWS.	
Shea butter, see Oil, edible: Shea butter*	34	3		OSH (VEO).
Silica slurry	43		SLC.	
Siloxanes	34		SLX.	
Sludge, treated	43		SWA.	
Sodium acetate, Glycol, Water mixture (not containing Sodium hydroxide).	34	2	SAW	SAO/SAP/SAQ/SAY.

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Sodium acetate, Glycol, Water mixture (containing Sodium hydroxide).	5		SAQ	SAO/SAP/SAW/SAY.
Sodium acetate, Glycol, Water mixture (1% or less Sodium hydroxide) (if non-flammable or non-combustible).	5	2	SAY	SAO/SAP/SAQ/SAY.
Sodium acetate solutions	34		SAN.	
Sodium alkyl (C14-C17) sulfonates (60–65% solution)	34		SSA	AKA/AKE/SSU.
Sodium aluminate solution	5		SAV	SAU.
Sodium aluminate solution (45% or less)	5		SAU	SAV.
Sodium aluminosilicate slurry	34		SLR.	
Sodium benzoate solution	34		SBN	SBM.
Sodium bicarbonate solution (less than 10%)	34		SBC.	
Sodium borohydride (15% or less)/Sodium hydroxide solution	5		SBX	CSS/SBH/SBI/SHD.
Sodium bromide solution (less than 50%) *	43	3	SBL	SBR.
Sodium carbonate solution	5		SCE.	
Sodium chlorate solution (50% or less)	0	1, 2	SDD	SDC.
Sodium cyanide solution	5		SCO	SCN/SCS.
Sodium dichromate solution (70% or less)	0	1, 2	SDL	SCR.
Sodium hydrogen sulfide (6% or less)/Sodium carbonate (3% or less) solution.	0	1, 2	SSS	SCE/SHW.
Sodium hydrogen sulfite solution (45% or less)	43		SHY	SHX.
Sodium hydrosulfide/Ammonium sulfide solution	5	2	SSA	ASF/ASS.
Sodium hydrosulfide solution (45% or less)	5	2	SHR.	
Sodium hydroxide solution, see Caustic soda solution	5	2		CSS (SHD).
Sodium hypochlorite solution (15% or less)	5		SHP	SHC/SHQ.
Sodium hypochlorite solution (20% or less)	5		SHQ	SHC/SHP.
Sodium lignosulfonate solution	43		SLG	LNL.
Sodium long-chain alkyl salicylate (C13+)	34		SLS.	
Sodium-2-mercaptobenzothiazol solution, see Mercaptobenzothiazol, sodium salt solution.	5			SMB.
Sodium methoxide (25% in methanol)	5		SMO.	
Sodium methylate 21–30% in methanol *	20	3	SMT	SMS.
Sodium naphthalene sulfonate solution, see Naphthalene sulfonic acid (40% or less), sodium salt solution (40% or less).	34		SNS	NSA (NSB).
Sodium naphthenate solution, see Naphthenic acid, sodium salt solution.	34			NTS.
Sodium nitrite solution	5		SNI	SNT.
Sodium petroleum sulfonate	34		SPS.	
Sodium polyacrylate solution	43		SOO	SOP.
Sodium poly(4+)acrylate solution	43	2	SOP	SOO.
Sodium salt of Ferric hydroxyethylethylenediaminetriacetic acid solution, see Ferric hydroxyethylethylenediaminetriacetic acid, trisodium salt solution.	34		STA	FHX.
Sodium silicate solution	43	2	SSN	SSC.
Sodium sulfate solution *	34	3	SST	SSO.
Sodium sulfide/Hydrosulfide solution (H_2S 15 ppm or less)	0	1, 2	SSH	SDS/SHR/SSI/SSJ.
Sodium sulfide/Hydrosulfide solution (H_2S greater than 15 ppm but less than 200 ppm).	0	1, 2	SSI	SDS/SHR/SSH/SSJ.
Sodium sulfide/Hydrosulfide solution (H_2S greater than 200 ppm).	0	1, 2	SSJ	SDS/SHR/SSH/SSI.
Sodium sulfide solution (15% or less)	43		SDR	SDS.
Sodium sulfite solution (25% or less)	43		SUP	SSF/SUS.
Sodium thiocyanate solution (56% or less)	0	1, 2	STS	SCY.
Sorbitol solution	20		SBU	SBT.
Soyabean fatty acid methyl ester, see Oil, misc: Soyabean fatty acid methyl ester.	34			OST.
Soyabean oil, see Oil, edible: Soyabean	34			OSB (VEO).
Stearic acid, see Fatty acids (saturated, C14+)	34		SRA	FAD (FAB/FAE/FDI/FDT).
Stearyl alcohol	20		SYL	ALY/ASY.
Stoddard solvent, see Naphtha: Stoddard solvent	33			NSS.
Styrene monomer	30		STY.	
Sulfohydrocarbon (C3-C88)	33		SFO.	
Sulfohydrocarbon, long-chain (C18+) alkylamine mixture	7		SFX.	
Sulfolane	39		SFL.	
Sulfonated polyacrylate solutions	43	2	SPA.	
Sulfur (molten)	0	1, 2	SXX.	
Sulfur dioxide	0	1	SFD.	
Sulfuric acid	2	2	SFA	SAC.
Sulfuric acid, spent	2	2	SAC	SFA.
Sulfurized fat (C14-C20)	33		SFT.	
Sulfurized polyolefinamide	7		SPY.	
Sulfurized polyolefinamide alkene(C28-C250) amine	7		SPO.	
Sunflower seed oil, see Oil, edible: Sunflower seed	34			OSN (VEO).

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Tall oil, see Oil, misc: Tall	34			OTL (OTI/OTJ).
Tall oil, crude, see Oil, misc: Tall, crude *	34	2, 3		OTI (OTJ/OTL).
Tall oil, distilled, see Oil, misc: Tall, distilled *	34	3		OTJ (OTI/OTL).
Tall oil, fatty acid, see Oil, misc: Tall fatty acid	34			OTT.
Tall oil fatty acid (resin acids less than 20%), see Oil, misc: Tall oil fatty acid (resin less than 20%).	34	2		OTK (OTT).
Tall oil soap (crude)	4		TOR	TOS.
Tall oil, pitch, see Oil, misc: Tall pitch *	34	3		OTP (OTI/OTJ/OTL).
Tallow	34	2	TLO.	
Tallow alcohol, see Alcohols (C13+)	20	2	TFA	ALY (ASY).
Tallow alkyl nitrile	37		TAN.	
Tallow fatty acid	34	2	TFD.	
Tallow fatty alcohol, see Alcohols (C13+)	20		TFA	ALY.
TAME, see tert-Amyl methyl ether	40			AYE.
Tertiary butyl phenols	21		BLT	BTP.
1,1,2,2-Tetrachloroethane	36		TEC	TEE.
Tetradecanol, see Alcohols (C13+)	20		TTN	ALY.
Tetradecene, see the olefins or alpha-olefin entries	30			OAM/OFY/OFW/OFZ/TDD.
Tetradecylbenzene, see Alkyl(C9+) benzenes	32		TDB	AKB.
Tetraethylene glycol	40		TTG.	
Tetraethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40			PAG.
Tetraethylene pentamine	7	2	TTP.	
Tetraethyl silicate monomer/oligomer (20% in ethanol) *	0	1, 3	TSM.	
Tetrahydrofuran	41		THF.	
Tetrahydronaphthalene	32		THN.	
Tetramethylbenzene (all isomers)	32		TTC	TTB.
Tetrapropylbenzene, see Alkyl(C9+)benzenes	32			AKB.
Tetrasodium salt of ethylenediaminetetraacetic acid solution, see Ethylenediaminetetraacetic acid, tetrasodium salt solution.	43.			EDS.
Titanium dioxide slurry	43		TDS.	
Titanium tetrachloride	2		TTT.	
Toluene	32		TOL.	
Toluenediamine	9		TDA.	
Toluene diisocyanate	12		TDJ	TDI/TDJ.
o-Toluidine	9		TLI	TOD/TOI.
Triarylphosphate, see Triisopropylated phenyl phosphates	34		TRA	TPL.
Tributyl phosphate	34		TBP.	
1,2,3-Trichlorobenzene (molten) *	36	3	TBZ	TCB.
1,2,4-Trichlorobenzene	36		TCB	TBZ.
1,1,1-Trichloroethane	36	2	TCE	TCM.
1,1,2-Trichloroethane	36		TCM	TCE.
Trichloroethylene	36	2	TCL.	
1,2,3-Trichloropropane	36	2	TCN.	
1,1,2-Trichloro-1,2,2-trifluoroethane	36		TTF.	
Tricresyl phosphate (containing 1% or more ortho-isomer) *	34	3	TCO	TCP/TCQ.
Tricresyl phosphate (containing less than 1% ortho-isomer) *	34	3	TCP	TCO/TCQ.
Tridecane (all isomers), see Alkanes (C10+) (all isomers)	31		TRD	ALV (ALJ).
Tridecanoic acid	34		TDO.	
Tridecanol, see Alcohols (C13+)	20		TDN	ALY (ASK/ASY/AYK/LAL).
Tridecene, see Olefins (C13+)	30		TRD	OAM/OFY/OFW/OFZ/TDC.
Tridecyl acetate	34		TAE.	
Tridecylbenzene, see Alkyl(C9+) benzenes	32		TRB	AKB.
Triethanolamine	8	2	TEA.	
Triethylamine	7		TEN.	
Triethylbenzene	32		TEB.	
Triethylene glycol	40		TEG.	
Triethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether.	40		TBE	PAG.
Triethylene glycol butyl ether mixture	40		TBD.	
Triethylene glycol di-(2-ethylbutyrate)	34		TGD.	
Triethylene glycol ether mixture	40		TYM.	
Triethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		TGE	PAG.
Triethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		TGY	PAG.
Triethylenetetramine	7	2	TET.	
Triethyl phosphate	34		TPS.	
Triethyl phosphite	34	2	TPI.	
Triisobutylene	30		TIB.	
Triisooctyl trimellitate	34		TIS.	
Triisopropanolamine	8		TIP.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Triisopropanolamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution.	43			DTI.
Triisopropylated phenyl phosphates	34		TPL.	
Trimethylacetic acid	4		TAA.	
Trimethylamine solution (30% or less)	7		TMT	TMA.
Trimethylbenzene (all isomers)	32		TRE	TMB/TMD/TME.
Trimethyl nonanol, see Dodecanol	20			DDN (ASK/ASY/LAL).
Trimethylol propane polyethoxylated	40		TPR.	
2,2,4-Trimethyl-1,3-pentanediol diisobutyrate	34		TMQ.	
2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate	34		TMP.	
2,2,4-Trimethyl-3-pentanol-1-isobutyrate	34		TMR.	
1,3,5-Trioxane	41	2	TRO.	
Triphenylborane (10% or less)/Caustic soda solution	5		TPB.	
Tripropylene, see Propylene trimer	30			PTR.
Tripropylene glycol	40		TGC.	
Tripropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	40		TGM	PAG.
Trisodium nitrilotriacetate solution, see Nitrilotriacetic acid, trisodium salt solution.	34		TSO	NCA (TSN).
Trisodium phosphate solution	5		TSP.	
Trisodium salt of N-(Hydroxyethyl)ethylenediaminetriacetic acid solution, see N-(Hydroxyethyl)ethylenediaminetriacetic acid, trisodium salt solution.	43			HET.
Trixylenyl phosphate, see Trixylyl phosphate	34			TRP.
Trixylyl phosphate	34			TRP.
Tung oil, see Oil, misc: Tung	34			OTG
Turpentine	30		TPT.	
Turpentine substitute, see White spirit (low (15–20%) aromatic)	33			WSL (WSP).
Ucarsol CR Solvent 302 SG	8		UCS.	
Undecane (all isomers), see Alkanes (C10+) (all isomers)	31		UDN	ALV (ALJ).
Undecanoic acid	4		UDA.	
Undecanol, see Undecyl alcohol	20			UND (ALR).
Undecene	30		UDD	UDC.
1-Undecene	30		UDC	UDD.
Undecyl alcohol	20		UND	ALR.
Undecylbenzene, see Alkyl(C9+) benzenes			UDB	AKB.
Urea, Ammonium mono- and di-hydrogen phosphate/Potassium chloride solution.	0	1	UPX.	
Urea/Ammonium nitrate solution *	34	3	UAV	ANU/UAS/UAT/UAU.
Urea/Ammonium nitrate solution (containing less than 1% free Ammonia).	43		UAU	ANU/UAS/UAT/UAV.
Urea/Ammonium nitrate solution (containing less than 2% free Ammonia).	6		UAT	ANU/UAS/UAU/UAV.
Urea/Ammonium phosphate solution	43		UAP.	
Urea solution	43		USL	URE.
Valeraldehyde (all isomers)	19		VAK	IVA/VAL.
Vanillin black liquor (free alkali content 3% or more)	5		VBL.	
Vegetable oils, n.o.s	34		VEO.	
Including:				
Beechnut oil.				
Camelina oil.				
Cashew nut shell.				
Castor oil.				
Cocoa butter.				
Coconut oil.				
Corn oil.				
Cottonseed oil.				
Croton oil.				
Groundnut oil.				
Hazelnut oil.				
Illipe oil.				
Jatropha oil.				
Linseed oil.				
Mango kernel oil.				
Nutmeg butter.				
Oiticica oil.				
Olive oil.				
Palm kernel oil.				
Palm kernel olein.				
Palm kernel stearin.				
Palm mid fraction.				

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Palm, non-edible industrial grade.				
Palm oil.				
Palm olein.				
Palm stearin.				
Peanut oil.				
Peel oil (oranges and lemons).				
Perilla oil.				
Pine oil.				
Poppy seed oil.				
Poppy oil.				
Raisin seed oil.				
Rapeseed oil.				
Rapeseed (low erucic acid containing less than 4% free fatty acids).				
Resin, distilled.				
Resin oil.				
Rice bran oil.				
Rosin oil.				
Safflower oil.				
Salad oil.				
Sesame oil.				
Shea butter.				
Soyabean oil.				
Sunflower seed oil.				
Tall.				
Tall, crude.				
Tall, distilled.				
Tall, pitch.				
Tucum oil.				
Tung oil.				
Walnut oil.				
Vegetable acid oils, n.o.s.	34		VAD.	
Including:				
Corn acid oil.				
Cottonseed acid oil.				
Dark mixed acid oil.				
Groundnut acid oil.				
Mixed acid oil.				
Mixed general acid oil.				
Mixed hard acid oil.				
Mixed soft acid oil.				
Rapeseed acid oil.				
Safflower acid oil.				
Soya acid oil.				
Sunflower seed acid oil.				
Vegetable fatty acid distillates*	34	3	VFD.	
Including:				
Palm kernel fatty acid distillate.				
Palm oil fatty acid distillate.				
Tall fatty acid distillate.				
Tall oil fatty acid distillate.				
Vegetable protein solution (hydrolyzed)	43		VPS.	
Vinyl acetate	13	2	VAM.	
Vinyl chloride	35		VCM.	
Vinyl ethyl ether	13		VEE.	
Vinylidene chloride	35		VCI.	
Vinyl neodecanoate	13	2	VND.	
Vinyltoluene	13		VNT.	
Water	43		WTR.	
Waxes			WAX.	
Candelilla	34		WCD.	
Carnauba	34		WCA.	
Paraffin	31		WPF.	
Petroleum	33		WPT.	
White spirit, see White spirit (low (15–20%) aromatic)	33		WSP	WSL.
White spirit (low (15–20%) aromatic)	33		WSL	WSP.
Wine, see Alcoholic beverages	20		ABV.	
Wood lignin with Sodium acetate/oxalate*	0	1, 3	WOL.	
Xylenes	32		XLX	XLM/XLO/XLP.
Xylenes/Ethylbenzene (10% or more) mixture	32		XEB.	
Xylenol	21		XYL.	
Zinc alkaryl dithiophosphate (C7-C16)	34		ZAD.	

TABLE I TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS Code	Related CHRIS Codes
Zinc alkenyl carboxamide	10		ZAA.	
Zinc alkyl dithiophosphate (C3-C14)	34		ZAP.	
Zinc bromide/Calcium bromide solution, see Drilling brine (containing Zinc salts).	43			DZB.

Notes:
1. Because of very high reactivity or unusual conditions of carriage or potential compatibility problems, this commodity is not assigned to a specific group in Figure 1 to 46 CFR part 150 (Compatibility Chart).
2. See Appendix I to 46 CFR part 150 (Exceptions to the Chart).
3. "*" From the March 2012 Annex to the 2007 edition of the IBC Code.
4. *Italicized* words are not part of the cargo name but may be used in addition to the cargo name.

■ 5. Revise Table II to Part 150 to read as follows:

TABLE II TO PART 150—GROUPING OF CARGOES

Group	Cargo
0. Unassigned	Acetone cyanohydrin [1 2] Alkenoic acid, polyhydroxy ester borated [1] Alkyl (C8-C10)/(C12-C14) : (60% or more/40% or less) Alkyl (C18-C28) toluenesulfonic acid [1] Alkyl (C11-C17) benzene sulfonic acid polyglucoside solution (55% or less) [1] Alkylbenzenesulfonic acid [1 2] Alkyl benzene distillation bottoms [1] Aluminium chloride, Hydrochloric acid solution [1] Aluminum chloride/Hydrogen chloride solution [1] Ammonium hydrogen phosphate solution [1] Ammonium nitrate solution [1] Ammonium thiocyanate, Ammonium thiosulfate solution [1] Benzenesulfonyl chloride [1 2] gamma-Butyrolactone [1 2] Chlorine [1] Chlorosulfonic acid [1] Decyloxytetrahydro-thiophene dioxide [1] tert-Dodecanethiol [1] 2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution (70% or less) [1 2] Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution [1 2] Dimethyl disulfide [1] Diphenylol propane-Epichlorohydrin resins [1] Dodecylbenzenesulfonic acid [1 2] Dodecyl hydroxypropyl sulfide [1 2] Ethylene oxide [1] Hydrogen peroxide solutions [1] Hydrogenated starch hydrolysate [1] Lactic acid [1 2] Ligninsulfonic acid, sodium salt solution [1] Liquid chemical wastes [1] Long chain alkaryl sulfonic acid (C16-C60) [1 2] Magnesium chloride solution [1 2] Malitol solution [1] Methyl cyclopentadienyl manganese tricarbonyl [1] Methyl cyclopentadienyl manganese tricarbonyl (60–70%) in mineral oil [1] Molybdenum polysulfide long chain alkyl dithiocarbamide complex [1] Molasses residue [1] Motor fuel antiknock compounds containing Lead alkyls [1] Naphthalene sulfonic acid-formaldehyde copolymer, sodium salt solution [1] NIAX POLYOL APP 240C [1 2] Nitrating acid [1] Nitric acid (greater than 70%) [1] o-Nitrophenol [1 2] Noxious Liquid Substance, n.o.s. (NLS's) [1] Oleum [1 2] Orange juice (concentrated) [1] Orange juice (not concentrated) [1] Oxygenated aliphatic hydrocarbon mixture [1] Phosphorus [1] Phthalate based polyester polyol [1 2] Potassium polysulfide, Potassium thiosulfide solution (41% or less) [1] 2-Propene-1-aminium, N,N-dimethyl-N-2-propenyl-, chloride, homopolymer solution [1]

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	SAP 7001 [1]
	Sodium chlorate solution [1 2]
	Sodium dichromate solution [1 2]
	Sodium hydrogen sulfide, Sodium carbonate solution [1 2]
	Sodium sulfide, Hydrosulfide solution [1 2]
	Sodium thiocyanate solution [1 2]
	Sulfur [1]
	Tall oil fatty acid, barium salt [1 2]
	Tetraethyl silicate monomer/oligomer (20% in ethanol) [1]
	Urea, Ammonium mono- and di-hydrogen phosphate, Potassium chloride solution [1]
	Wood lignin with Sodium acetate/oxalate [1]
1. Non-Oxidizing Mineral Acids	Di-(2-ethylhexyl)phosphoric acid
	Ferric chloride solution
	Fluorosilicic acid (20–30%) in water solution
	Fluorosilicic acid (30% or less)
	Hydrochloric acid
	Phosphoric acid
	Polyaluminum chloride solution
2. Sulfuric Acids	Sulfuric acid [2]
	Sulfuric acid, spent
	Titanium tetrachloride
3. Nitric Acids	Ferric nitrate, Nitric acid solution
	Nitric acid (70% or less)
	Nitric acid (70% and over)
4. Organic Acids	Acetic acid [2]
	Acid oil mixture from soya bean, corn (maize) and sunflower oil refining
	Acrylic acid [2]
	Butyric acid
	i-Butyric acid
	Cashew nut shell oil (untreated)
	Citric acid (70% or less)
	Chloroacetic acid solution
	Chloroacetic acid (80% or less)
	Chloropropionic acid
	Decanoic acid
	2,2-Dichloropropionic acid
	2,2-Dimethyloctanoic acid
	2-Ethylhexanoic acid
	Fatty acids, (C8-C10)
	Fatty acids, (C12+)
	Fatty acids, (C16+)
	Fatty acids, essentially linear (C6-C18) 2-ethylhexyl ester
	Fatty acid methyl esters
	Formic acid [2]
	Formic acid (over 85%) [2]
	Formic acid mixture (containing up to 18% Propionic acid and up to 25% Sodium formate) [2]
	Glycolic acid
	Glyoxylic acid
	n-Heptanoic acid
	1,6-Hexanediol distillation overheads
	Hexanoic acid
	2-Hydroxy-4-(methylthio)butanoic acid
	Jatropha oil
	Long chain alkyl (C13+) salicylic acid
	Metal fatty acid salt
	Metal long chain alkyl salt
	Methacrylic acid
	Microsilica slurry
	Naphthenic acid
	Neodecanoic acid
	Nonanoic acid
	Nonanoic, Tridecanoic acid mixture
	Octanoic acid (all isomers)
	n-Pentanoic acid, 2-Methyl butryic acid mixture
	Pentanoic acid
	Propionic acid
	Trimethylacetic acid
	Undecanoic acid
5. Caustics	Ammonium sulfide solution (45% or less)
	Calcium hypochlorite solutions
	Calcium hypochlorite solution (15% or less)
	Calcium hypochlorite solution (more than 15%)

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Caustic potash solution [2]
	Caustic soda solution [2]
	Cresylate spent caustic
	Cresylic acid, sodium salt solution
	Kraft black liquor
	Kraft pulping liquors
	Mercaptobenzothiazol, sodium salt solution
	Potassium hydroxide solution [2]
	Sodium acetate, Glycol, Water mixture (containing Sodium hydroxide)
	Sodium aluminate solution
	Sodium borohydride, Sodium hydroxide solution
	Sodium carbonate solutions
	Sodium cyanide solution
	Sodium hydrosulfide solution [2]
	Sodium hydrosulfide, Ammonium sulfide solution [2]
	Sodium hydroxide solution [2]
	Sodium hypochlorite solution
	Sodium 2-mercaptobenzothiazol solution
	Sodium naphthenate solution
	Sodium nitrite solution
	Triphenylborane, Caustic soda solution
	Trisodium phosphate solution
	Vanillin black liquor
6. Ammonia	Ammonia, anhydrous
	Ammonia, aqueous
	Ammonium hydroxide (28% or less Ammonia)
	Ammonium nitrate, Urea solution (containing Ammonia)
	Urea, Ammonium nitrate solution (containing Ammonia)
7. Aliphatic Amines	Alkenylamine mixtures
	Alkyl (greater than C8) amine, Alkenyl (greater than C12) acid ester in mineral oil
	Alkyl amine (C17 or greater)
	Alkyl (C12+) dimethylamine
	N-Aminoethylpiperazine
	Butylamine (all isomers)
	Calcium long chain alkyl phenolic amine (C8-C40)
	Crude piperazine
	Cyclohexylamine
	Dibutylamine
	Diethylamine
	Diethylenetriamine [2]
	Diisobutylamine
	Diisopropylamine
	Dimethylamine
	Dimethylamine solution (45% or less)
	Dimethylamine solution (greater than 45% but not greater than 55%)
	Dimethylamine solution (greater than 55% but not greater than 65%)
	N,N-Dimethylcyclohexylamine
	N,N-Dimethyldodecylamine
	Di-n-propylamine
	Diphenylamine, reaction product with 2,2,4-Trimethylpentene
	Diphenylamines, alkylated
	Dodecylamine, Tetradecylamine mixture [2]
	Dodecyldimethylamine, Tetradecyldimethylamine mixture
	Ethoxylated tallow alkyl amine
	Ethoxylated tallow amine (>95%)
	Ethoxylated tallow alkyl amine, glycol mixture
	Ethylamine [2]
	Ethylamine solution (72% or less)
	Ethyleneamine EA 1302 [2]
	N-Ethyl-n-butylamine
	N-Ethyl cyclohexylamine
	Ethylenediamine [2]
	2-Ethyl hexylamine
	N-Ethylmethylallylamine
	Glyphosate solution (not containing surfactant)
	Hexamethylenediamine
	Hexamethylenediamine (molten)
	Hexamethylenediamine solution
	Hexamethylenetetramine
	Hexamethylenetetramine solutions
	Hexamethylenimine
	HiTec 321

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	bis-(Hydrogenated tallow alkyl)methyl amines
	Isophorone diamine
	Isopropylamine
	Isopropylamine (70% or less) solution
	Long chain alkyl amine
	Long chain polyetheramine in alkyl(C2-C4)benzenes
	Metam sodium solution
	Methylamine solutions (42% or less)
	Morpholine [2]
	Oleylamine
	Pentaethylenehexamine
	Pentaethylenehexamine, Tetraethylenepentamine mixture
	Phosphate esters, alkyl (C12-C14) amine
	Polyalkenyl succinic anhydride amine
	Polyalkyl alkeneamine succinimide, molybdenum oxysulfide
	Polyethylene polyamines [2]
	Polyethylene polyamines (more than 50% C5-C20 paraffin oil)
	Poly(iminoethylene)-graft-N-poly (ethyleneoxy) solution (90% or less)
	Polyisobutenamine in aliphatic (C10-C14) solvent
	Polyolefin amide alkeneamine (C28+)
	Polyolefin amide alkeneamine polyol
	Poly olefin amine
	Poly (C17+) olefin amine
	Polyolefin amide alkeneamine/Molybdenum oxysulfide mixture
	Polyoxypropylenediamine (MW 2000)
	Propanil, Mesityl oxide, Isophorone mixture
	Propylamine
	iso-Propylamine solution
	Roundup
	Sulfohydrocarbon, long chain (C18+) alkylamine mixture
	Tetraethylenepentamine [2]
	Triethylamine
	Triethylenetetramine [2]
	Trimethylamine solution
	Trimethylhexamethylene diamine (2,2,4- and 2,4,4-)
8. Alkanolamines	Alkyl (C12-C16) propoxyamine ethoxylate
	2-(2-Aminoethoxy)ethanol
	Aminoethyldiethanolamine, Aminoethylethanolamine solution
	Aminoethylethanolamine
	2-Amino-2-methyl-1-propanol
	Diethanolamine
	Diethylaminoethanol
	Diethylethanolamine
	Diisopropanolamine
	Dimethylethanolamine
	Ethanolamine
	Ethoxylated alkyloxy alkyl amine
	Ethoxylated long chain (C16+) alkyloxyalkanamine
	Isopropanolamine
	Isopropanolamine solution
	N,N-bis (2-Hydroxyethyl) oleamide
	Linear alkyl (C12-C16) propoxyamine ethoxylate
	Methyl diethanolamine
	Propanolamine
	Triethanolamine [2]
	Triisopropanolamine
	Ucarsol CR Solvent 302 SG
9. Aromatic Amines	Alkyl (C8-C9) phenylamine in aromatic solvents
	Amine C-6, morpholine process residue
	Aniline
	Calcium long chain alkyl phenolic amine (C8-C40)
	4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution
	Dialkyl (C8-C9) diphenylamines
	2,6-Diethylaniline
	Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution
	2,6-Dimethylaniline
	Diphenylamine
	Diphenylamine (molten)
	Diphenylamine, reaction product with 2,2,4-trimethylpentene
	Diphenylamines, alkylated
	2-Ethyl-6-methyl-N-(1′-methyl-2-methoxyethyl)aniline
	N-Methylaniline

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	2-Methyl-6-ethyl aniline
	2-Methyl-5-ethyl pyridine
	Methyl pyridine
	2-Methylpyridine
	3-Methylpyridine
	4-Methylpyridine
	N-Methyl-2-pyrrolidone [2]
	Paraldehyde-Ammonia reaction product
	Polyolefin phenolic amine (C28-C250)
	Pyridine
	Pyridine bases
	Toluenediamine
	p-Toluidine
10. Amides	Acetochlor
	Acrylamide solution (50% or less)
	Alkenyl(C11+)amide
	N,N-Dimethylacetamide
	N,N-Dimethylacetamide solution
	N,N-Dimethylacetamide solution (40% or less)
	Dimethylformamide
	Formamide
	N,N-bis(2-Hydroxyethyl) oleamide
	Octadecenoamide
	Organomolybdenum amide
	Polybutenyl succinimide
	Polyisobutenyl succinimide
	Zinc alkenyl carboxamide
11. Organic Anhydrides	Acetic anhydride
	Alkenylsuccinic anhydride
	Alkyl succinic anhydride
	Maleic anhydride
	Phthalate based polyester polyol
	Phthalic anhydride
	Polyisobutenyl anhydride adduct
	Polyisobutylene succinic anhydride
	Polyolefin anhydride
	Propionic anhydride
12. Isocyanates	Diphenylmethane diisocyanate
	Hexamethylene diisocyanate
	Isophorone diisocyanate
	Polymethylene polyphenyl isocyanate
	Toluene diisocyanate
	Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-)
13. Vinyl Acetates	Vinyl acetate
	Vinyl ethyl ether
	Vinyl neodecanate
	Vinyl toluene
14. Acrylates	Butyl acrylate (all isomers)
	Butyl/Decyl/Cetyl/Eicosyl methacrylate mixture
	Butyl methacrylate
	i-Butyl methacrylate
	Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture
	Cetyl-Eicosyl methacrylate mixture
	Decyl acrylate
	Dodecyl methacrylate
	Dodecyl-Octadecyl methacrylate mixture
	Dodecyl-Pentadecyl methacrylate mixture
	Ethyl acrylate
	2-Ethylhexyl acrylate
	Ethyl methacrylate
	2-Hydroxyethyl acrylate [2]
	Isobutyl methacrylate
	Methacrylic resin in Ethylene dichloride
	Methyl acrylate
	Methyl methacrylate
	Nonyl methacrylate
	Polyalkyl acrylate
	Polyalkyl(C18-C22) acrylate in Xylene
	Polyalkyl (C10-C18) methacrylate/Ethylene
	Polyalkyl methacrylate
	Polyalkyl methacrylate in mineral oil
	Polyalkyl (C10-C20) methacrylate

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Polyalkyl methacrylate solution (containing max 40% active material)
	Propylene copolymer mixture
	Roehm monomer 6615
15. Substituted Allyls	Acrylonitrile [2]
	Allyl alcohol [2]
	Allyl chloride
	1,3-Dichloropropene
	Dichloropropene
	Dichloropropene, Dichloropropane mixtures
	Methacrylonitrile
16. Alkylene Oxides	Butylene oxide
	Ethylene oxide, Propylene oxide mixtures
	Ethylene oxide/Propylene oxide mixture with an Ethylene oxide content not more than 30% by mass)
	Propylene oxide
17. Epichlorohydrins	Chlorohydrins (crude)
	Epichlorohydrin
18. Ketones	Acetone [2]
	Acetophenone
	Amyl methyl ketone
	Butyl heptyl ketone
	Camphor oil
	1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one [2]
	Cyclohexanone
	Cyclohexanone, Cyclohexanol mixtures [2]
	Diisobutyl ketone
	Ethyl amyl ketone
	Epoxy resin
	Ketone residue
	Isophorone [2]
	Mesityl oxide [2]
	Methyl amyl ketone
	Methyl butyl ketone
	Methyl ethyl ketone [2]
	Methyl heptyl ketone
	Methyl isoamyl ketone
	Methyl isobutyl ketone [2]
	Methyl propyl ketone
	beta-Propriolactone
	Trifluralin in Xylene
19. Aldehydes	Acetaldehyde
	Acrolein [2]
	Butyraldehyde (all isomers)
	Crotonaldehyde [2]
	Decaldehyde
	Ethylhexaldehyde
	2-Ethyl-3-propylacrolein [2]
	Formaldehyde, Methanol mixtures [2]
	Formaldehyde solutions [2]
	Furfural
	Glutaraldehyde solution
	Glyoxal solutions
	3-Methyl butyraldehyde
	Methylolureas
	3-(Methylthio)propionaldehyde
	Octyl aldehyde
	Paraldehyde
	Pentyl aldehyde
	Propionaldehyde
	Valeraldehyde
20. Alcohols, Glycols	Acrylonitrile-Styrene copolymer dispersion in Polyether polyol
	Alcoholic beverages
	Alcohol polyethoxylates
	Alcohol polyethoxylates, secondary
	Alcohols (C13+)
	Alcohols (C12+), primary, linear
	Alcohols (C12-C13), primary, linear and essentially linear
	Alcohols (C14-C18), primary, linear and essentially linearAlkyl (C4-C9) phenols
	n-Amyl alcohol
	Amyl alcohol, primary
	sec—Amyl alcohol
	tert- Amyl alcohol
	Behenyl alcohol

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume) Brake fluid base mixtures Brake fluid base mix: Poly(2-8)alkylene (C2-C3) glycols/Polyalkylene (C2-C10) glycols monoalkyl (C1-C4) ethers and their borate esters1,4-Butanediol Butyl alcohol[2] (all isomers) n-Butyl alcohol iso-Butyl alcohol t-Butyl alcohols Butylene glycol[2] Cetyl-Stearyl alcohol Choline chloride solutions Cyclohexanol Cyclopentanol Decyl alcohol (all isomers)[2] Decyl/Dodecyl/Tetradecyl alcohol mixture Diacetone alcohol[2] Diethyl hexanol Diethylene glycol Diethylene glycol dibenzoate Diisobutyl carbinol 2,2-Dimethylpropane-1,3-diol Dodecanol Dodecyl alcohol Dodecyl hydroxypropyl sulfide Ethoxylated alcohols, C11-C15 2-Ethoxyethanol Ethyl alcohol[2] Ethyl butanol Ethylene chlorohydrin Ethylene cyanohydrin Ethylene glycol[2] 2-Ethylhexanol Furfuryl alcohol[2] Glycerine[2] Glycerine, Dioxanedimethanol mixture Glycerol monooleate Glycol Glycol mixture, crude Heptanol Hexamethylene glycol Hexanol Hexylene glycol Hydroxy terminated polybutadiene Icosa(oxypropane-2,3-diyl)s Isoamyl alcohol Isobutyl alcohol Isopropyl alcohol Lauryl polyglucose (50% or less) Methacrylic acid-alkyloxypoly (alkylene oxide) methacrylate copolymer sodium salt aqueous solution (45% or less) 3-Methoxy-1-butanol Methyl alcohol[2] Methyl amyl alcohol alpha-Methylbenzyl alcohol with acetophenone (15% or less) Methyl butenol Methylbutynol 2-Methyl-2-hydroxy-3-butyne Methyl isobutyl carbinol 3-Methyl-3-methoxybutanol 2-Methyl-1,3-propanediol Molasses Nonyl alcohol[2] Octanol (all isomers)[2] Octyl alcohol[2] Penacosa(oxypropane-2,3-diyl)s Pentadecanol Polyalkylene oxide polyol Polybutadiene, hydroxy terminated Polyglycerol Polyglycerine, Sodium salts solution (containing less than 3% Sodium hydroxide)[2] Polyolefin amide alkeneamine polyol Propyl alcohol[2]

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Propylene glycol [2]
	Rum
	Sodium methylate solution (21–30% in Methanol)
	Sorbitol solutions
	Stearyl alcohol
	Tallow fatty alcohol
	Tetradecanol
	Tridecanol
	Trimethyl nonanol
	Trimethylol propane polyethoxylate
	Undecanol
	Undecyl alcohol
21. Phenols, Cresols	Alkylated (C4-C9) hindered phenols
	Benzyl alcohol
	Carbolic oil
	Creosote [2]
	Creosote (coal tar) [2]
	Creosote (wood tar) [2]
	Cresols (all isomers)
	Cresylic acid
	Cresylic acid dephenolized
	Cresylic acid, tar
	Dibutylphenols
	2,4-Dichlorophenol
	Di-tert-butyl phenols
	2,4-Di-tert-butyl phenols
	2,6-Di-tert-butyl phenols
	Dodecyl phenol
	o-Ethylphenol
	Long chain alkylphenate/phenol sulfide mixture
	Methylene bridged isobutylenated phanols
	Nonyl phenol
	Nonyl phenol (48–62%)/Phenol (42–48%)/Dinonyl phenol (1–10%) mixture
	Octyl phenol
	Phenol
	Xylenols
22. Caprolactam Solutions	Caprolactam solution
	epsilon-Caprolactam (molten or aqueous solutions)
23-29. Unassigned.	
30. Olefins	Acrylic acid/ethenesulfonic acid copolymer with phosphonate groups, sodium salt solution
	Amylene
	Aryl polyolefin (C11-C50)
	Butadiene
	Butadiene, Butylene mixtures (cont. Acetylenes)
	Butadiene Feedstock [Kirby]
	Butene
	Butene oligomer
	Butylene
	1,5,9-Cyclododecatriene
	1,3-Cyclopentadiene dimer (molten)
	Cyclopentadiene, Styrene, Benzene mixture
	Cyclopentene
	Decene
	Dichloropropene
	Dicyclopentadiene
	Dicyclopentadiene, Resin Grade, 81–89%
	Diisobutylene
	Dipentene
	Dodecene
	Ethylene
	Ethylene-Propylene copolymer
	Ethylidene norbornene [2]
	1-Heptene
	Hexene (all isomers)
	Isoprene
	Isoprene concentrate (Shell)
	Latex (ammonia (1% or less) inhibited
	Methyl acetylene, Propadiene mixture
	Methyl butene
	Methylcyclopentadiene dimer
	2-Methyl-1-pentene
	4-Methyl-1-pentene

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	alpha-Methyl styrene
	Myrcene
	Nonene
	1-Octadecene
	Octene
	Olefin mixtures
	Olefin mixture (C7-C9) C8 rich, stabilized
	Olefin mixtures (C5-C7)
	Olefin mixtures (C5-C15)
	alpha-Olefins (C6-C18) mixtures
	alpha-Olefins (C13+)
	1,3-Pentadiene
	1,3-Pentadiene (greater than 50%), Cyclopentene and isomers, mixtures
	Pentene
	alpha-Pinene
	beta-Pinene
	Polybutene
	Poly(4+)isobutylene
	Polyolefin in mineral oil
	Polyolefin (molecular weight 300+)
	Polypropylene
	Poly(5+)propylene
	Propylene
	Propylene-butylene copolymer
	Propylene dimer
	Propylene, Propane, MAPP gas mixture
	Propylene tetramer
	Propylene trimer
	Styrene monomer
	Tetradecene
	Tridecene
	Triisobutylene
	Tripropylene
	Turpentine
	Undecene
31. Paraffins	Alkanes (C6-C9)
	Alkanes (C10-C26) linear and branched
	Alkanes (C10-C26) linear and branched (flash point > 60 °C)n-Alkanes (C10+)
	iso- & cyclo-Alkanes (C10-C11)
	iso- & cyclo-Alkanes (C12+)
	Aviation alkylates (C8 paraffins and iso-paraffins BPT 95-120 °C)
	Butane
	Cycloheptane
	Cyclohexane
	Cyclopentane
	Decane
	Dodecane
	Ethane
	Ethyl cyclohexane
	Heptane
	Hexane [2]
	Isopropylcyclohexane
	Methane
	Methylcyclohexane
	2-Methyl pentane
	Mineral oil
	Nonane
	Octane
	Paraffin wax
	Pentane
	Polyalpha olefins
	Polyolefin (molecular weight 300+)
	Propane
	iso-Propylcyclohexane
	Tridecane
	Waxes:
	Paraffin
32. Aromatic Hydrocarbons	Alkyl(C3-C4)benzenes
	Alkyl(C5-C8)benzenes
	Alkyl(C9+)benzenes
	Alkyl acrylate-Vinyl pyridine copolymer in Toluene
	Alkylbenzene, Alkylindane, Alkylindene mixture (each C12-C17)

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Alkylbenzene mixtures (containing at least 50% of Toluene)
	Alkyl toluene
	Alkyl (C18+) toluene
	Aryl polyolefin (C11-C50)
	Benzene
	Benzene hydrocarbon mixtures (having 10% Benzene or more)
	Benzene, Toluene, Xylene mixtures
	Butylbenzene (all isomers)
	Butyl phenol, Formaldehyde resin in Xylene
	Butyl toluene
	Cumene
	Cymene
	Decylbenzene
	Dialkyl(C10-C14) benzenes
	Diethylbenzene
	Diisopropylbenzene (all isomers)
	Diisopropyl naphthalene
	Diphenyl
	Dodecylbenzene
	Dodecyl xylene
	Ethylbenzene
	Ethyl toluene
	1-Hexadecylnaphthalene, 1, 4-bis(Hexadecyl)
	1,1-Hexadecylnaphthalene/1,4-bis (hexadecyl) naphthalene mixture
	1,n-Hexadecylnaphthalene (90%), 1,4-Di-n-(hexadecyl-naphthalene (10%)
	Isopropylbenzene
	Methyl naphthalene (molten)
	Naphthalene (molten)
	Naphthalene mixture
	Naphthalene still residue
	1-Phenyl-1-xylyl ethane
	Parachlorobenzotrifluoride
	Poly(2+)cyclic aromatics
	Polyolefin amine in alkylbenzenes (C2-C4)
	Polyolefin amine in aromatic solvent
	Propylbenzene
	Pseudocumene
	Pyrolysis gasoline (containing Benzene)
	C9 Resinfeed (DSM)[2]
	Tetradecylbenzene
	Tetrahydronaphthalene
	1,2,3,5-Tetramethylbenzene
	Toluene
	Tridecylbenzene
	Triethylbenzene
	Trimethylbenzene
	Undecylbenzene
	Xylene
	Xylenes, Ethylbenzene mixture
33. Miscellaneous Hydrocarbon Mixtures.	Alachlor
	Alachlor technical (90% or more)
	Alkylbenzenesulfonic acid, sodium salt solutions
	Alkyl dithiothiadiazole (C6-C24)
	Alkyl toluene sulfonic acid, calcium salts
	Alkyl (C18-C28) toluene sulfonic acid, Calcium salts, high overbase
	Alkyl (C18-C28) toluene sulfonic acid, Calcium salts, low overbaseAsphalt blending stocks, roofers flux
	Asphalt blending stocks, straight run residue
	Asphalt emulsion
	Asphalt, kerosene, and other components
	Bio-fuel blends of Diesel/gas oil and Alkanes (C10-C26), linear and branched with a flash point > 60 °C (>25% but <99% by volume)
	Bio-fuel blends of Diesel/gas oil and Alkanes (C10-C26), linear and branched with a flash point < 60 °C (>25% but <99% by volume)
	Calcuim sulfonate, Calcium carbonate, Hydrocarbon solvent mixture
	Coal tar
	Coal tar distillate
	Coal tar, high temperature
	Coal tar pitch (molten)
	Decahydronaphthalene
	Degummed C9 (DOW)
	Diphenyl, Diphenyl ether
	Distillates

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Distillates, flashed feed stocks Distillates, straight run Drilling mud (low toxicity) (*if flammable or combustible*) Gas oil, cracked Gasoline blending stock, alkylates Gasoline blending stock, reformates Gasolines: Automotive (*not over 4.23 grams lead per gal.*) Aviation (*not over 4.86 grams lead per gal.*) Casinghead (*natural*) Polymer Straight run Jet Fuels: JP–4 JP–5 JP–8 Kerosene Maleated ethylene-propylene copolymer reaction product [synthetic rubber] Mineral spirits Naphtha: Coal tar solvent Petroleum Solvent Stoddard solvent Varnish Makers' and Painters' Oil, fuel: No. 1 No. 1–D No. 2 No. 2–D No. 4 No. 5 No. 6 Oil, misc: Aliphatic Aromatic Clarified Coal Crude Diesel Gas, high pour Heartcut distillate Linseed Lubricating Mineral Mineral seal Motor Neatsfoot Penetrating Pine Rosin Sperm Spindle Turbine Residual Road Transformer Oxyalkylated alkyl phenol formaldehyde Petrolatum Pine oil Polybutene Polyolefin amine (C28-C250) Polyolefin amide alkeneamine (C17+) Polyolefin amide alkeneamine (C28+) Polyolefin amide alkeneamine borate (C28-C250) Polyolefin amide alkeneamine in mineral oil Resin oil, distilled Sodium petroleum sulfonate Sulfohydrocarbon (C3-C88) Waxes: Petroleum Sulfurized fat (C14-C20)

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
34. Esters	Sulfurized polyolefinamide alkeneamines (C28-C250) White spirit (low (15–20%) aromatic) Acid oil mixture from soybean, corn (maize) and sunflower oil refining Alkane (C14-C17) sulfonic acid, sodium salt solution Alkyl(C8+)amine, Alkenyl (C12+) acid ester mixture Alkylaryl phosphate mixtures, (more than 40% Diphenyl tolyl phosphate. Less than 0.02% ortho-isomer) Alkyl dithiocarbamate (C19-C35) Alkyl ester copolymer (C4-C20) Alkyl ester copolymer (C6-C18) Alkyl ester copolymer in mineral oil Alkyl(C7-C9) nitrates [2] Alkyl (C8-C40) phenol sulfide Alkyl (C10-C20, saturated and unsaturated) phosphite Alkyl sulfonic acid ester of phenol Alkyl (C18-C28) toluene sulfonic acid, Calcium salts, borated Alkylaryl phosphate mixtures (more than 40%) Amyl acetate (all isomers) Amyl acid phosphate t-Amyl formate Animal and Fish oils, n.o.s. Animal and Fish acid oils and distillates, n.o.s. Barium long chain alkaryl (C11-C50) sulfonate Barium long chain alkyl(C8-C14)phenate sulfide Benzene tricarboxylic acid trioctyl ester Benzyl acetate Bio-fuel blends of Diesel/gas oil and FAME (>25% but <99% by volume) Bio-fuel blends of Diesel/gas oil and vegetable oil (>25% but <99% by volume) Boronated calcium sulfonate Butyl acetate (all isomers) Butyl benzyl phthalate Butyl butyrate (all isomers) Butyl formate iso-Butyl isobutyrate n-Butyl propionate Butyl stearate Calcium alkaryl sulfonate (C11-C50) Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture Calcium alkyl (C10-C28) salicylateCalcium carbonate slurry Calcium long chain alkaryl sulfonate (C11-C50) Calcium long chain alkyl (C5-C10) phenate Calcium long chain alkyl (C5-C20) phenate Calcium long chain alkyl (C11-C40) phenate Calcium long chain alkyl phenate sulfide (C8-C40) Calcium long chain alkyl phenates Calcium long chain alkyl salicylate (C13+) Calcium long chain alkyl (C18-C28) salicylate Calcium nitrate, Magnesium nitrate, Potassium chloride solution Calcium nitrate Calcium nitrate solutions (50% or less) Calcium salts of fatty acids Calcium stearate Camelina oil Cesium formate solution Cobalt naphthenate in solvent naphtha Coconut oil, fatty acid Coconut oil, fatty acid methyl ester Copper salt of long chain (C3-C16) fatty acid Copper salt of long chain (C17+) fatty acid Copper salt of long chain alkanoic acids Cottonseed oil, fatty acid Cyclohexyl acetate Decyl acetate Dialkyl(C7-C13) phthalates Dialkyl(C7-C17) phthalates Dialkyl thiophosphates sodium salts solution Dibutyl hydrogen phosphonate Dibutyl phthalate Dibutyl terephthalate Diethylene glycol butyl ether acetate Diethylene glycol dibenzoate Diethylene glycol ethyl ether acetate Diethylene glycol methyl ether acetate Diethylene glycol phthalate

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Di-(2-ethylhexyl)adipate
	Di-(2-ethylhexyl)phthalate
	Diethyl phthalate
	Diethyl sulfate
	Diheptyl phthalate
	Dihexyl phthalate
	Di-n-hexyl adipate
	Diisobutyl phthalate
	Diisodecyl phthalate
	Diisononyl adipate
	Diisononyl phthalate
	Diisooctyl phthalate
	Dimethyl adipate
	Dimethylcyclicsiloxane hydrolyzate
	Dimethyl glutarate
	Dimethyl hydrogen phosphite [2]
	Dimethyl naphthalene sulfonic acid, sodium salt solution [2]
	Dimethyl phthalate
	Dimethyl polysiloxane
	Dimethyl succinate
	Dinonyl phthalate
	Dioctyl phthalate
	Diphenyl tolyl phosphate, less than 0.02% ortho-isomer)
	Dipropylene glycol dibenzoate
	Dithiocarbamate ester (C7-C35)
	Ditridecyl adipate
	Ditridecyl phthalate
	2-Dodecenylsuccinic acid, dipotassium salt solution
	Diundecyl phthalate
	2-Ethoxyethyl acetate
	Ethyl acetate
	Ethyl acetoacetate
	Ethyl butyrate
	2-Ethyl-2-(2,4-dichlorophenoxy) acetate
	2-Ethyl-2-(2,4-dichlorophenoxy) propionate
	s-Ethyl dipropylthiocarbamate
	Ethylene carbonate
	Ethylene glycol
	Ethylene glycol acetate
	Ethylene glycol butyl ether acetate
	Ethylene glycol diacetate
	Ethylene glycol ethyl ether acetate
	Ethylene glycol methyl ether acetate
	Ethyl-3-ethoxypropionate
	Ethyl hexyl phthalate
	2-Ethyl-2-(hydroxymethyl) propane-1,3-diol, C8-C10 ester
	Ethyl propionate
	Ethyl propionate
	Fatty acids (saturated, C14+)
	Glycerol polyalkoxylate
	Glyceryl triacetate
	Glycidyl ester of C10 trialkyl acetic acid
	Gylcidyl ester of tridecylacetic acid
	Heptyl acetate
	Hexyl acetate
	Isobutyl formate
	Isopropyl acetate
	Lard
	Lauric acid
	Lecithin
	Magnesium long chain alkaryl sulfonate (C11-C50)
	Magnesium long chain alkyl phenate sulfide (C8-C20)
	Magnesium long chain alkyl phenate sulfide (C8-C40)
	Magnesium long chain alkyl salicylate (C11+)
	Magnesium long chain alkyl salicylate (C13+)
	Mango kernel
	3-Methoxybutyl acetate
	1-Methoxy-2-propyl acetate
	Methyl acetate
	Methyl acetoacetate
	Methyl amyl acetate
	Methyl butyrate

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Methyl formate 3-Methyl-3-methoxybutyl acetate Methyl salicylate Metolachlor Naphthalene sulfonic acid, sodium salt solution (40% or less) Nitrilotriacetic acid, trisodium salt solution Nonyl acetate Octamethylcyclotetrasiloxane n-Octyl acetate Octyl decyl adipate Oil, edible: Beechnut Castor Cocoa butter Coconut [2] Cod liver Corn Cotton seed Fish [2] Groundnut Hazelnut Lard Lanolin Nutmeg butter Olive Palm [2] Palm kernel Peanut Poppy Poppy seed Raisin seed Rapeseed Rice bran Safflower Salad Sesame Soya bean Sunflower Sunflower seed Tucum Vegetable Walnut *Oil, misc:* Animal Coconut oil, fatty actid methyl ester Cotton seed oil, fatty acid Lanolin Palm kernel oil, fatty acid methyl ester Palm oil, methyl ester Pilchard Perilla Soapstock Soyabean (epoxidized) Tall Tall, fatty acid [2] Tung Olefin/Alkyl ester copolymer (molecular weight 2000+) Oleic acid Palm acid oil Palm fatty acid distillate Palm kernel acid oil Palm kernel acid oil, methyl esterPalm kernel oil fatty acid Palm mid fraction Palm oil Palm oil fatty acid Palm oil fatty acid methyl ester Palm kernel olein Palm kernel stearin Palm olein Palm stearin n-Pentyl propionate Phosphate esters

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate
	Polydimethylsiloxane
	Polyferric sulfate solution
	Polymethylsiloxane
	Polyolefin amide alkeneamine borate (C28-C250)
	Poly(20)oxyethylene sorbitan monooleate
	Polysiloxane
	Polysiloxane/White spirit, low (15–20%) aromatic
	Polyolefin aminoester salt
	Polyolefin ester (C28-C250)
	Polyolefin phosphorosulfide, barium derivative (C28-C250)
	Potassium formate solution
	Potassium formate solution (75% or more)
	Potassium oleate
	Potassium salt of polyolefin acid
	Propyl acetate
	Propylene carbonate
	Propylene glycol methyl ether acetate
	Rapeseed oil fatty acid methyl esters
	Rapeseed oil (low erucic acid containing less than 4% free fatty acids)
	Shea butter
	Siloxanes
	Sodium acetate, Glycol, Water mixture (not containing Sodium hydroxide) [2]
	Sodium acetate solution
	Sodium alkyl (C14-C17) sulfonates 60–65% solution
	Sodium benzoate solution
	Sodium bicarbonate solution (less than 10%)
	Sodium bromide solution (less than 50%)
	Sodium dimethyl naphthalene sulfonate solution [2]
	Sodium long chain alkyl salicylate (C13+)
	Sodium naphthalene sulfonate solution
	Sodium petroleum sulfonate
	Sodium sulfate solutions
	Soyabean oil (epoxidized)
	Stearic acid
	Tall oil
	Tall oil, crude
	Tall oil, distilled
	Tall oil fatty acid (*Resin acids less than 20%*) [2]
	Tall oil, pitch
	Tall oil soap, crude
	Tallow [2]
	Tallow fatty acid [2]
	Tributyl phosphate
	Tricresyl phosphate
	Tricresyl phosphate (containing 1% or more ortho-isomer)
	Tricresyl phosphate (containing less than 1% ortho-isomer)
	Tridecanoic acid
	Tridecyl acetate
	Triethylene glycol dibenzoate
	Triethylene glycol di-(2-ethylbutyrate)
	Triethyl phosphate
	Triethyl phosphite [2]
	Triisooctyl trimellitate
	Triisopropylated phenyl phosphates
	2,2,4-Trimethyl-1,3-pentanediol diisobutyrate
	2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate
	2,2,4-Trimethyl-3-pentanol-1-isobutyrate
	Trimethyl phosphite [2]
	Trisodium nitrilotriacetate
	Trixylyl phosphate
	Trixylenyl phosphate
	Urea/Ammonium nitrate solution
	Vegetable acid oils and distillates, n.o.s.
	Vegetable fatty acid distillates
	Vegetable oils, n.o.s.
	Waxes:
	Carnauba
	Zinc alkaryl dithiophosphate (C7-C16)
	Zinc alkyl dithiophosphate (C3-C14)
35. Vinyl Halides	Vinyl chloride
	Vinylidene chloride

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
36. Halogenated Hydrocarbons	Benzyl chloride
	Bromochloromethane
	Carbon tetrachloride [2]
	Catoxid feedstock [2]
	Chlorinated paraffins (C10-C13)
	Chlorinated paraffins (C14-C17) (with 50% Chlorine or more, and less than 1% C13 or shorter chains)
	Chlorinated paraffins (C14-C17) (with 52% chlorine)
	Chlorinated paraffins (C18+) with any level of chlorine
	Chlorobenzene
	Chlorodifluoromethane
	Chloroform
	Chlorotoluene
	m-Chlorotoluene
	o-Chlorotoluene
	p-Chlorotoluene
	Chlorotoluenes (mixed isomers)
	Dibromomethane
	Dibutylphenols
	3,4-Dichloro-1-butene
	Dichlorobenzene (all isomers)
	Dichlorodifluoromethane
	1,1-Dichloroethane
	1,6-Dichlorohexane
	Dichloromethane
	Dichloropropane
	Ethyl chloride
	Ethylene dibromide
	Ethylene dichloride [2]
	Methyl bromide
	Methyl chloride
	Monochlorodifluoromethane
	n-Propyl chloride
	Pentachloroethane
	Perchloroethylene
	1,1,2,2-Tetrachloroethane
	1,2,3-Trichlorobenzene
	1,2,3-Trichlorobenzene (molten)
	1,2,4-Trichlorobenzene
	1,1,1-Trichloroethane [2]
	1,1,2-Trichloroethane
	Trichloroethylene [2]
	1,2,3-Trichloropropane
	1,1,2-Trichloro-1,2,2-trifluoroethane
37. Nitriles	Acetonitrile
	Acetonitrile (low purity grade)
	Adiponitrile
	Lactonitrile solution (80% or less)
	2-Methylglutaronitrile
	2-Methylglutaronitrile with 2-Ethylsuccinonitrile (12% or less)
	Propionitrile
	Tallow nitrile
38. Carbon Disulfide	Carbon disulfide
39. Sulfolane	Sulfolane
40. Glycol Ethers	Alcohol (C9-C11) poly (2.5-9) ethoxylates
	Alcohol (C6-C17) (secondary) poly (3-6) ethoxylates
	Alcohol (C6-C17) (secondary) poly (7-12) ethoxylates
	Alcohol (C12-C16) poly (1-6) ethoxylates
	Alcohol (C12-C16) poly (7-19) ethoxylates
	Alcohol (C12-C16) poly (20+) ethoxylates
	Alkyl (C7-C11) phenol poly(4-12)ethoxylate
	Alkyl (C9-C15) phenyl propoxylate
	Diethylene glycol [2]
	Diethylene glycol butyl ether
	Diethylene glycol dibutyl ether
	Diethylene glycol diethyl ether
	Diethylene glycol ethyl ether
	Diethylene glycol methyl ether
	Diethylene glycol n-hexyl ether
	Diethylene glycol phenyl ether
	Diethylene glycol propyl ether
	Dipropylene glycol
	Dipropylene glycol butyl ether

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Dipropylene glycol methyl ether
	Ethoxy triglycol
	Ethylene glycol hexyl ether
	Ethylene glycol methyl butyl ether
	Ethylene glycol monoalkyl ethers
	Ethylene glycol tert-butyl ether
	Ethylene glycol butyl ether
	Ethylene glycol dibutyl ether
	Ethylene glycol ethyl ether
	Ethylene glycol isopropyl ether
	Ethylene glycol methyl ether
	Ethylene glycol phenyl ether
	Ethylene glycol phenyl ether, Diethylene glycol phenyl ether mixture
	Ethylene glycol propyl ether
	Glucitol/glycerol blend propoxylated (containing less than 10% amines)
	Glycerol, ethoxylated
	Glycerol, propoxylated
	Glycerol, propoxylated and ethoxylated
	Glycerol/Sucrose blend propoxylated and ethoxylated
	Hexaethylene glycol
	alpha-Hydro-omega-hydroxytetradeca (oxytetramethylene)
	Methoxy triglycol
	Nonyl phenol poly(4+)ethoxylates
	Pentaethylene glycol methyl ether
	Polyalkylene glycol butyl ether
	Polyalkylene glycols, Polyalkylene glycol monoalkyl ethers mixtures
	Polyether glycol (MW 600-700) (TETRAETHANE 650)
	Polyether glycol (MW 950-1050) (TETRAETHANE 1000)
	Polyether glycol (MW 1350-1450) (TETRAETHANE 1400)
	Polyether glycol (MW 1900-2100) (TETRAETHANE 2000)
	Polyether glycol (MW 2825-2975) (TETRAETHANE 2900)
	Polyethylene glycols
	Polyethylene glycol dimethyl ether
	Poly(ethylene glycol) methylbutenyl ether (MW>1000)
	Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether
	Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate
	Polyethylene glycol monoalkyl ether
	Polypropylene glycol methyl ether
	Polypropylene glycols
	Poly(tetramethylene ether) glycols (MW 950-1050)
	Polytetramethylene ether glycol
	n-Propoxypropanol
	Propylene glycol monoalkyl ether
	Propylene glycol ethyl ether
	Propylene glycol methyl ether
	Propylene glycol n-butyl ether
	Propylene glycol phenyl ether
	Propylene glycol propyl ether
	Tetraethylene glycol
	Tetraethylene glycol methyl ether
	Triethylene glycol
	Triethylene glycol butyl ether
	Triethylene glycol butyl ether mixture
	Triethylene glycol ether mixture
	Triethylene glycol ethyl ether
	Triethylene glycol methyl ether
	Tripropylene glycol
	Tripropylene glycol methyl ether
41. Ethers	Alcohol (C12-C13, branched and linear) poly (4-8) propoxy sulfates, sodium salt 25–30% solution
	Alkaryl polyether (C9-C20)
	tert-Amyl methyl ether
	Brominated Epoxy Resin in Acetone
	Butyl ether
	n-Butyl ether-Dichloroethyl ether
	2,2′-Dichloroisopropyl etherDiethyl ether
	Diethylene glycol propyl ether
	Diglycidyl ether of Bisphenol A
	Diglycidyl ether of Bisphenol F
	Dimethyl furan
	1,4-Dioxane
	Diphenyl ether
	Diphenyl ether, Diphenyl phenyl ether mixture

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Ethyl tert-butyl ether
	Ethyl ether
	Isopropyl ether
	Long chain alkaryl polyether (C11-C20)
	Methyl-tert-butyl ether [2]
	Methyl tert-pentyl ether
	Polyether (molecular weight 2000+)
	Polyether, borated
	Polyether polyols
	Poly(oxyalkylene)alkenyl ether (MW>1000)
	Polyoxybutylene alcohol
	Propyl ether
	Tetrahydrofuran
	1,3, 5-Trioxane
42. Nitrocompounds	o-Chloronitrobenzene
	Dinitrotoluene
	Nitrobenzene
	Nitroethane
	Nitroethane (80%)/Nitropropane (20%)
	Nitroethane, 1-Nitropropane mixture
	Nitropropane
	Nitropropane, Nitroethane mixtures
	Nitrophenol (mixed isomers)
	o- or p-Nitrotoluenes
43. Miscellaneous Water Solutions	Alkyl (C8-C10)/(C12-C14):(40% or less/60% or more) polyglucoside solution (55% or less)
	Alkyl (C8-C10)/(C12-C14):(50%/50%) polyglucoside solution (55% or less)
	Alkyl (C8-C10)/(C12-C14):(60% or more/40% or less) polyglucoside solution (55% or less)
	Alkyl (C8-C10) polyglucoside solution (65% or less)
	Alkyl (C12-C14) polyglucoside solution (55% or less)
	Alkyl polyglucoside solutions
	Aluminum hydroxide, sodium hydroxide, sodium carbonate solution (40% or less)
	Aluminum sulfate solution [2]
	2-Amino-2-hydroxymethyl-1,3-propanediol solution
	Ammonium bisulfite solution [2]
	Ammonium chloride solution (less than 25%) drilling brines
	Ammonium chloride solution (less than 25%)
	Ammonium lignosulfonate solution
	Ammonium nitrate, Urea solution (not containing Ammonia)
	Ammonium polyphosphate solution
	Ammonium sulfate solution
	Ammonium thiosulfate solution (60% or less)
	Barium sulfate slurry
	Calcium bromide solution
	Calcium chloride solution
	Calcium formate solution
	Calcium lignosulfonate solution
	Calcium lignosulfonate solution (free alkali content 1% or less)
	Caramel solutions
	Clay slurry
	Coal slurry
	Corn syrup
	Dextrose solution
	2,4-Dichlorophenoxyacetic acid, Diethanolamine salt solution
	2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution [2]
	Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid solution
	Diethylenetriamine pentaacetic acid, pentasodium salt solution
	Dodecyl diphenyl ether disulfonate solution
	Drilling brine (containing Calcium, Potassium, or Sodium salts)
	Drilling brine (containing Zinc salts)
	Drilling brines, including: Calcium bromide solution, Calcium chloride solution and Sodium chloride solution
	Drilling mud (low toxicity) (*if non-flammable or non-combustible*)
	Ethylenediaminetetracetic acid, tetrasodium salt solution
	Ethylene-Vinyl acetate copolymer emulsion
	Ferric hydroxyethylethylenediamine triacetic acid, trisodium salt solution [2]
	Ferrous chloride solution (less than 40%, containing less than 10% Manganese and Aluminum chlorides)
	Fish solubles (*water based fish meal extracts*)
	Fructose solution
	Fumaric adduct of Rosin, water dispersion
	Hexamethylenediamine adipate solution
	N-(Hydroxyethyl)ethylene diamine triacetic acid, trisodium salt solution
	Kaolin clay slurry
	Latex: Carboxylated Styrene-Butadiene copolymer; Styrene-butadiene rubber

TABLE II TO PART 150—GROUPING OF CARGOES—Continued

Group	Cargo
	Latex, liquid synthetic
	Lignin liquor
	Ligninsulfonic acid, magnesium salt solution
	Liquid Streptomyces solubles
	L-Lysine solution (60% or less)
	Magnesium nitrate solution (66.7%)
	N-Methylglucamine solution
	N-Methylglucamine solution (70% or less)
	Naphthenic acid, sodium salt solution
	Polyacrylic acid solution (40% or less)
	Potassium chloride solution
	Potassium chloride solution (less than 26%)
	Potassium thiosulfate solution
	Potassium thiosulfate solution (50% or less)
	Rosin soap (disproportionated) solution
	Sewage sludge, treated
	Sodium alkyl sulfonate solution
	Sodium bromide solution (less than 50%)
	Sodium hydrogen sulfite solution
	Sodium lignosulfonate solution
	Sodium polyacrylate solution [2]
	Sodium salt of Ferric hydroxyethylethylenediamine triacetic acid solution
	Sodium silicate solution [2]
	Sodium sulfide solution
	Sodium sulfite solution
	Sodium sulfite solution (25% or less)
	Sodium tartrates, Sodium succinates solution
	Sulfonated polyacrylate solutions [2]
	Tall oil soap (disproportionated) solution
	Tetrasodium salt of EDTA solution
	Titanium dioxide slurry
	Triisopropanolamine salt of 2,4-Dichlorophenoxyacetic acid solution
	Urea, Ammonium nitrate solution (not containing Ammonia)
	Urea, Ammonium phosphate solution
	Urea solution
	Vegetable protein solution (hydrolysed)
	Water

Notes:
[1] Because of very high reactivity or unusual conditions of carriage or potential compatibility problems, this commodity is not assigned to a specific group in Figure 1 to 46 CFR part 150 (Compatibility Chart).
[2] See Appendix I to 46 CFR part 150 (Exceptions to the Chart).

■ 6. Revise Appendix I to part 150 to read as follows:

Appendix I to Part 150—Exceptions to the Chart

(a) The binary combinations listed below have been tested as prescribed in Appendix III to part 150 and found not to be dangerously reactive. These combinations are exceptions to Figure 1 of part 150 (Compatibility Chart) and may be stowed in adjacent tanks.

Member of reactive group	Compatible with
Acetone (18)	Diethylenetriamine (7).
Acetone cyanohydrin (0)	Acetic acid (4).
Acrylonitrile (15)	Triethanolamine (8).
n-Butyl alcohol (20)	Caustic Potash (50% or less).
1,3-Butylene glycol (20)	Morpholine (7).
1,4-Butylene glycol (20)	Ethylamine (7).
	Triethanolamine (8).
gamma-Butyrolactone (0)	N-Methyl-2-pyrrolidone (9).
Caustic potash, 50% or less (5)	Isobutyl alcohol (20).
	Ethyl alcohol (20).
	n-Butyl alcohol (20).
	Ethylene glycol (20).
	Isopropyl alcohol (20).
	Methyl alcohol (20).
	iso-Octyl alcohol (20).
	Propylene glycol (20).
Caustic soda, 50% or less (5)	Acrylonitrile/Styrene copolymer dispersion in Polyether polyol (20).
	iso-Butyl alcohol (20).

Member of reactive group	Compatible with
	Butyl alcohol (20).
	tert-Butyl alcohol, Methanol mixtures.
	Decyl alcohol (20).
	Cetyl alcohol (20).
	Alcohol (C12-C16) poly(1-6)ethoxylates) (20).
	iso-Decyl alcohol (20).
	Diacetone alcohol (20).
	Diethylene glycol (40).
	Dodecyl alcohol (20).
	Ethyl alcohol (20).
	Ethyl alcohol (40%, whiskey) (20).
	Ethylene glycol (20).
	Ethylene glycol, Diethylene glycol mixture (20).
	Ethyl hexanol (Octyl alcohol) (20).
	Methyl alcohol (20).
	Nonyl alcohol (20).
	iso-Decyl alcohol (20).
	iso-Nonyl alcohol (20).
	Propyl alcohol (20).
	iso-Propyl alcohol (20).
	Propylene glycol (20).
	Sodium chlorate solution (0).
	iso-Tridecanol (20).
1,1-Dichloroethane (36)	Dimethyl disulfide (0).
Dimethyl disulfide (0)	Acetic acid (4).
	Acetic anhydride (11).
	Acetone (18).
	Acrylates (14).
	Acrylic acid (4).
	Alcohols, Glycols (20).
	Aromatic hydrocarbons (32).
	Benzene (32).
	Cyclohexanone (18).
	Diisononyl phthalate (34).
	Esters (34).
	Ethyl acetate (34).
	Ethyl acrylate (14).
	Ethyl dichloride (36) [1,1-Dichloroethane].
	Ethylene cyanohydrin (20).
	Ethylene glycol ethyl ether acetate (34) [2-Ethoxyethyl acetate].
	Formic acid (4).
	Halogenated hydrocarbons (36).
	Ketones (18).
	Mesityl oxide, Methyl ethyl ketone (18).
	Octene, Olefins (30).
	Organic acids (4).
	Organic anhydrides (11).
	Paraffins (31).
	Phenol (21).
	Phenols, Cresols (21).
	Trichloroethylene (36).
Diphenylmethane diisocyanate (12)	Perchloroethylene (36).
	Dichloromethane (36).
	2,2-Dimethylpropane-1,3-diol (20).
	Polypropylene glycol (40).
	Trichloroethylene (36).
tert-Dodecanethiol (0)	Acetone (18).
	Acrylonitrile (15).
	2-Butoxyethanol (20).
	n-Butyl acrylate (14).
	Caustic soda solution (50%) (5).
	Chloroform (36).
	iso-Decyl alcohol (20).
	Dichloromethane (36).
	Diglycidyl ether of Bisphenol A (41).
	Diisodecyl phthalate (34).
	Diglycidyl ether of Bisphenol A (41).
	Dichloromethane (36).
	Diisodecyl phthalate (DIDP) (34).
	Dipropylene glycol (40).
	Epichlorohydrin (17).
	Ethyl acrylate (14).
	Methanol (20).
	Methyl ethyl ketone (18).

Member of reactive group	Compatible with
	Naphtha, Solvent (33).
	iso-Nonyl alcohol (20).
	Perchloroethylene (36).
	iso-Propyl alcohol (20).
	iso-Propylamine solution (70%) (7).
	Propylene glycol methyl ether (40).
	Propylene glycol methyl ether acetate (34).
	Tall oil, crude (34).
	Toluene (32).
	Toluene diisocyanate (TDI) (12).
	White mineral oil (Carnation oil) (33).
Dodecyl and Tetradecylamine mixture (7)	Tall oil, fatty acid (34).
Ethylenediamine (7)	Butyl alcohol (20).
	tert-Butyl alcohol (20).
	Butylene glycol (20).
	Creosote (21).
	Diethylene glycol (40).
	Ethyl alcohol (20).
	Ethylene glycol (20).
	Ethyl hexanol (20).
	Fatty alcohols (C12-C14).
	Glycerine (20).
	Isononyl alcohol (20).
	Isophorone (18).
	Methyl butyl ketone (18).
	Methyl iso-butyl ketone (18).
	Methyl ethyl ketone (18).
	Propyl alcohol (20).
	Propylene glycol (20).
Lactic acid (0)	Acetic acid (4).
	Benzene (32).
	Ethanol (20).
	Polypropylene glycol (40).
	Vinyl acetate (13).
Oleum (0)	Hexane (31).
	Dichloromethane (36).
	Perchloroethylene (36).
1,2-Propylene glycol (20)	Diethylenetriamine (7).
	Polyethylene polyamines (7).
	Triethylenetetramine (7).
Sodium cresylate as Cresylate spent caustic (5)	Methyl alcohol (20).
Sodium dichromate, 70% (0)	Methyl alcohol (20).
Sodium dichromate, 69% (0)	1-Hexene (30).
Sodium hydrogen sulfide solution (5)	iso-Propyl alcohol (20).
Sodium hydrosulfide solution (5)	Methyl alcohol (20).
	Iso-Propyl alcohol (20).
Sulfuric acid (2)	Coconut oil (34).
	Coconut oil acid (34).
	Palm oil (34).
	Tallow (34).
Sulfuric acid, 98% or less (2)	Choice white grease tallow (34).

(b) The binary combinations listed below have been determined to be dangerously reactive, based on either data obtained in the literature or on laboratory testing which has been carried out in accordance with procedures prescribed in Appendix III. These combinations are exceptions to the Compatibility Chart (Figure 1) and may not be stowed in adjacent tanks.

Acetone cyanohydrin (0) is not compatible with Groups 1-12, 16, 17 and 22.

Acrolein (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Acrylic acid (4) is not compatible with Group 9, Aromatic Amines.

Acrylonitrile (15) is not compatible with Group 5 (Caustics).

Alkylbenzenesulfonic acid (0) is not compatible with Groups 1–3, 5–9, 15, 16, 18, 19, 30, 34, 37, and strong oxidizers.

Allyl alcohol (15) is not compatible with Group 12, Isocyanates.

Alkyl (C7-C9) nitrates (34) is not compatible with Group 1, Non-oxidizing Mineral Acids.

Aluminum sulfate solution (43) is not compatible with Groups 5–11.

Ammonium bisulfite solution (43) is not compatible with Groups 1, 3, 4, and 5.

Benzenesulfonyl chloride (0) is not compatible with Groups 5–7, and 43.

1,4-Butylene glycol (20) is not compatible with Caustic soda solution, 50% or less (5).

gamma-Butyrolactone (0) is not compatible with Groups 1–9.

C9 Resinfeed (DSM) (32) is not compatible with Group 2, Sulfuric acid.

Carbon tetrachloride (36) is not compatible with Tetraethylenepentamine or Triethylenetetramine, both Group 7, Aliphatic amines.

Catoxid feedstock (36) is not compatible with Group 1, 2, 3, 4, 5, or 12.

Caustic soda solution, 50% or less (5) is not compatible with 1,4-Butylene glycol (20).

1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one (18) is not compatible with Group 5 (Caustics) or 10 (Amides).

Crotonaldehyde (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Cyclohexanone, Cyclohexanol mixture (18) is not compatible with Group 12, Isocyanates.

2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution (43) is not compatible with Group 3, Nitric Acid.

2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution (0) is not compatible with Groups 1–5, 11, 12, and 16.

Diethylenetriamine (7) is not compatible with 1,2,3-Trichloropropane, Group 36, Halogenated hydrocarbons.

Dimethyl hydrogen phosphite (34) is not compatible with Groups 1 and 4.

Dimethyl naphthalene sulfonic acid, sodium salt solution (34) is not compatible with Group 12, Formaldehyde, and strong oxidizing agents.

Dodecylbenzenesulfonic acid (0) is not compatible with oxidizing agents and Groups 1, 2, 3, 5, 6, 7, 8, 9, 15, 16, 18, 19, 30, 34, and 37.

Ethylenediamine (7) and Ethyleneamine EA 1302 (7) are not compatible with either Ethylene dichloride (36) or 1,2,3-Trichloropropane (36).

Ethylene dichloride (36) is not compatible with Ethylenediamine (7) or Ethyleneamine EA 1302 (7).

Ethylidene norbornene (30) is not compatible with Groups 1–3 and 5–8.

2-Ethyl-3-propylacrolein (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Ethyl tert-butyl ether (41) is not compatible with Group 1, Non-oxidizing mineral acids.

Fatty acids, essentially linear, C6-C18, 2-ethylhexyl ester (4) is not compatible with Group 3, Nitric acid.

Ferric hydroxyethylethylenediamine triacetic acid, Sodium salt solution (43) is not compatible with Group 3, Nitric acid.

Fish oil (34) is not compatible with Sulfuric acid (2).

Formaldehyde (over 50%) in Methyl alcohol (over 30%) (19) is not compatible with Group 12, Isocyanates.

Formic acid (4) is not compatible with Furfural alcohol (20).

Furfuryl alcohol (20) is not compatible with Group 1, Non-Oxidizing Mineral Acids and Formic acid (4).

1,6-Hexanediol distillation overheads (4) is not compatible with Group 3, Nitric acid, and Group 9, Aromatic amines.

2-Hydroxyethyl acrylate (14) is not compatible with Group 5, 6, or 12.

Isophorone (18) is not compatible with Group 8, Alkanolamines.

Lactic acid (0) is not compatible with Caustic soda solution.

Magnesium chloride solution (0) is not compatible with Groups 2, 3, 5, 6 and 12.

Mesityl oxide (18) is not compatible with Group 8, Alkanolamines.

Methacrylonitrile (15) is not compatible with Group 5 (Caustics).

Methyl tert-butyl ether (41) is not compatible with Group 1, Non-oxidizing Mineral Acids.

Nitroethane, 1-Nitropropane (each 15% or more) mixture (42) is not compatible with Group 7, Aliphatic amines, Group 8, Alkanol amines, and Group 9, Aromatic amines.

Nitropropane (20%), nitroethane (80%) mixture (42) is not compatible with Group 7 (Aliphatic amines), Group 8 (Alkanol amines), and Group 9 (Aromatic amines).

NIAX POLYOL APP 240C (0) is not compatible with Groups 2, 3, 5, 7, or 12.

o-Nitrophenol (0) is not compatible with Groups 2, 3, and 5–10.

Octyl nitrates (all isomers), see Alkyl(C7-C9) nitrates.

Oleum (0) is not compatible with Sulfuric acid (2) and 1,1,1-Trichloroethane (36).

Phthalate based polyester polyol (0) is not compatible with Groups 2, 3, 5, 7 and 12.

Polyglycerine, Sodium salts solution (20) is not compatible with Groups 1, 4, 11, 16, 17, 19, 21 and 22.

Propylene, Propane, MAPP gas mixture (containing 12% or less MAPP gas) (30) is not compatible with Group 1 (Non-oxidizing mineral acids), Group 36 (Halogenated hydrocarbons), nitrogen dioxide, oxidizing materials, or molten sulfur.

Sodium acetate, Glycol, Water mixture (1% or less Sodium hydroxide) (34) is not compatible with Group 12 (Isocyanates).

Sodium chlorate solution (50% or less) (0) is not compatible with Groups 1–3, 5, 7, 8, 10, 12, 13, 17 and 20.

Sodium dichromate solution (70% or less) (0) is not compatible with Groups 1–3, 5, 7, 8, 10, 12, 13, 17 and 20.

Sodium dimethyl naphthalene sulfonate solution (34) is not compatible with Group 12, Formaldehyde and strong oxidizing agents.

Sodium hydrogen sulfide, Sodium carbonate solution (0) is not compatible with Groups 6 (Ammonia) and 7 (Aliphatic amines).

Sodium hydrosulfide (5) is not compatible with Groups 6 (Ammonia) and 7 (Aliphatic amines).

Sodium hydrosulfide, Ammonium sulfide solution (5) is not compatible with Groups 6 (Ammonia) and 7 (Aliphatic amines).

Sodium polyacrylate solution (43) is not compatible with Group 3, Nitric Acid.

Sodium silicate solution (43) is not compatible with Group 3, Nitric Acid.

Sodium sulfide, hydrosulfide solution (0) is not compatible with Groups 6 (Ammonia) and 7 (Aliphatic amines).

Sodium thiocyanate (56% or less) (0) is not compatible with Groups 1–4.

Sulfonated polyacrylate solution (43) is not compatible with Group 5 (Caustics).

Sulfuric acid (2) is not compatible with Fish oil (34), or Oleum (0).

Tall oil fatty acid (Resin acids less than 20%) (34) is not compatible with Group 5, Caustics.

Tallow fatty acid (34) is not compatible with Group 5, Caustics.

Tetraethylenepentamine (7) is not compatible with Carbon tetrachloride, Group 36, Halogenated hydrocarbons.

1,2,3-Trichloropropane (36) is not compatible with Diethylenetriamine, Ethylenediamine, Ethyleaneamine EA 1302, or Triethylenetetramine, all Group 7, Aliphatic amines.

1,1,1-Trichloroethane (36) is not compatible with Oleum (0).

Trichloroethylene (36) is not compatible with Group 5, Caustics.

Triethylenetetramine (7) is not compatible with Carbon tetrachloride, or 1,2,3-Trichloropropane, both Group 36, Halogenated hydrocarbons.

Triethyl phosphite (34) is not compatible with Groups 1, and 4.

Trimethyl phosphite (34) is not compatible with Groups 1 and 4.

1,3,5-Trioxane (41) is not compatible with Group 1 (non-oxidizing mineral acids) and Group 4 (Organic acids).

Vinyl neodecanoate (13) is not compatible with Group 5, Caustics.

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

■ 7. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; Department of Homeland Security Delegation No. 0170.1. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

■ 8. Revise Table 2 to part 153 to read as follows:

TABLE 2 TO PART 153—CARGOES NOT REGULATED UNDER SUBCHAPTERS D OR O OF THIS CHAPTER WHEN CARRIED IN BULK ON NON-OCEANGOING BARGES

[The cargoes listed in this table are not regulated under subchapter D or O of this title when carried in bulk on non-oceangoing barges. Category X, Y, or Z noxious liquid substance (NLS) cargo, as defined in Annex II of MARPOL 73/78, listed in this table, or any mixture containing one or more of these cargoes, must be carried under this subchapter if carried in bulk on an oceangoing ship.]

Cargoes	Pollution category
Acrylic acid/ethenesulfonic acid copolymer with phosphonate groups, sodium salt solution *	Z
Aluminum sulfate solution *	Y
2-Amino-2-hydroxymethyl-1,3-propanediol solution	#
Ammonium hydrogen phosphate solution	Z
Ammonium lignosulfonate solutions, *see also* Lignin liquor	Z
Ammonium nitrate solution (45% or less)	#
Ammonium phosphate, urea solution, *see also* Urea, Ammonium phosphate solution	#

TABLE 2 TO PART 153—CARGOES NOT REGULATED UNDER SUBCHAPTERS D OR O OF THIS CHAPTER WHEN CARRIED IN BULK ON NON-OCEANGOING BARGES—Continued

[The cargoes listed in this table are not regulated under subchapter D or O of this title when carried in bulk on non-oceangoing barges. Category X, Y, or Z noxious liquid substance (NLS) cargo, as defined in Annex II of MARPOL 73/78, listed in this table, or any mixture containing one or more of these cargoes, must be carried under this subchapter if carried in bulk on an oceangoing ship.]

Cargoes	Pollution category
Ammonium polyphosphate solution	Z
Ammonium sulfate solution	Z
Ammonium thiosulfate solution (60% or less)	Z
Apple juice	OS
Calcium bromide solution	Z
Calcium carbonate slurry	OS
Calcium chloride solution	Z
Calcium hydroxide slurry	Z
Calcium lignosulfonate solution, *see also* Lignin liquor	Z
Calcium nitrate solutions (50% or less) *	Z
Calcium nitrate/Magnesium nitrate/Potassium chloride solution	Z
Caramel solutions	#
Chlorinated paraffins (C14-C17) (with 50% Chlorine or more, and less than 1% C13 or shorter chains) *	X
Chlorinated paraffins (C14-C17) (with 52% Chlorine)	#
2-Chloro-4-ethylamino-6-isopropylamino-5-triazine solution	#
4-Chloro-2-methylphenoxyacetic acid, dimethylamine salt solution *	Y
Choline chloride solutions	Z
Clay slurry	OS
Coal slurry	OS
Dextrose solution, see Glucose solution	.....
Diethylenetriamine pentaacetic acid, pentasodium salt solution	Z
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution	#
Dodecenylsuccinic acid, dipotassium salt solution	#
Drilling brine (containing Calcium, Potassium, or Sodium salts) (*see also* Potassium chloride solution (10% or more))	#
Drilling brines, including: Calcium bromide solution, Calcium chloride solution and Sodium chloride solution (if non-flammable and non-combustible)	Z
Drilling brines (containing Zinc salts)	X
Drilling mud (low toxicity) (if non-flammable and non-combustible)	#
Ethylene-Vinyl acetate copolymer (emulsion)	Y
Ferric hydroxyethylethylenediamine triacetic acid, trisodium salt solution	#
Fish solubles (water based fish meal extracts)	#
Fructose solution	#
Glucose solution	OS
Glycine, Sodium salt solution	Z
Glyphosate solution (not containing surfactant) *	Y
Hexamethylenediamine adipate solution	#
Hexamethylenediamine adipate (50% in water)	Z
N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution	Y
Kaolin clay solution	#
Kaolin slurry	OS
Kraft pulping liquor (free alkali content, 1% or less) *including: Black, Green, or White liquor*	#
Lignin liquor (free alkali content, 1% or less)	Z
including:	
Ammonium lignosulfonate solutions	Z
Calcium lignosulfonate solutions	Z
Sodium lignosulfonate solution	Z
Ligninsulfonic acid, Sodium salt solution	Z
Magnesium chloride solution	Z
Magnesium hydroxide slurry	Z
Magnesium sulfonate solution	#
Maltitol solution *	OS
Microsillica slurry *	OS
Milk	#
Molasses	OS
Molasses residue (from fermentation)	#
Naphthalenesulfonic acid-Formaldehyde copolymer, sodium salt solution	Z
Naphthenic acid, sodium salt solution	#
Nitrilotriacetic acid, trisodium salt solution *	Y
Noxious liquid, NF, (1) n.o.s. (“trade name” contains “principle components”) ST 1, Cat X (if non-flammable and non-combustible)	X
Noxious liquid, NF, (3) n.o.s. (“trade name” contains “principle components”) ST 2, Cat X (if non-flammable and non-combustible)	X
Noxious liquid, NF, (5) n.o.s. (“trade name” contains “principle components”) ST 2, Cat Y (if non-flammable and non-combustible)	Y
Noxious liquid, NF, (7) n.o.s. (“trade name” contains “principle components”) ST 3, Cat Y (if non-flammable and non-combustible)	Y

TABLE 2 TO PART 153—CARGOES NOT REGULATED UNDER SUBCHAPTERS D OR O OF THIS CHAPTER WHEN CARRIED IN BULK ON NON-OCEANGOING BARGES—Continued

[The cargoes listed in this table are not regulated under subchapter D or O of this title when carried in bulk on non-oceangoing barges. Category X, Y, or Z noxious liquid substance (NLS) cargo, as defined in Annex II of MARPOL 73/78, listed in this table, or any mixture containing one or more of these cargoes, must be carried under this subchapter if carried in bulk on an oceangoing ship.]

Cargoes	Pollution category
Noxious liquid, NF, (9) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat Z (if non-flammable and non-combustible)	Z
Noxious liquid, NF, (11) n.o.s. (''trade name'' contains ''principle components'') Cat Z (if non-flammable and non-combustible)	Z
Noxious liquid, NF, (12) n.o.s. (''trade name'' contains ''principle components'') Cat OS (if non-flammable and non-combustible)	OS
Orange juice (concentrated) *	OS
Orange juice (not concentrated) *	OS
Pentasodium salt of Diethylenetriamine pentaacetic acid solution, see Diethylenetriamine pentaacetic acid, pentasodium salt solution	.....
Polyaluminum chloride solution	Z
Potassium chloride solution (26% or more), see Drilling brines, including: Calcium bromide solution, Calcium chloride solution and Sodium chloride solution	.....
Potassium chloride solution (less than 26%) *	OS
Potassium formate solutions *	Z
Potassium thiosulfate (50% or less) *	Y
Sewage sludge, treated (*treated so as to pose no additional decompositional and fire hazard; stable, non-corrosive, non-toxic, non-flammable)*	#
Silica slurry	#
Sludge, treated (*treated so as to pose no additional decompositional and fire hazard; stable, non-corrosive, non-toxic, non-flammable)*	#
Sodium acetate, Glycol, Water mixture (containing 1% or less Sodium hydroxide) (if non-flammable or non-combustible)	#
Sodium acetate solutions	Z
Sodium alkyl (C14-C17) sulfonates (60–65% solution) *	Y
Sodium aluminosilicate slurry	Z
Sodium bicarbonate solution (less than 10%) *	OS
Sodium carbonate solution	Z
Sodium hydrogen sulfide (6% or less)/Sodium carbonate (3% or less) solution *	Z
Sodium lignosulfonate solution, *see also* Lignin liquor	Z
Sodium naphthenate solution (free alkali content, 3% or less), see Naphthenic acid, sodium salt solution	.....
Sodium poly(4+)acrylate solutions	Z
Sodium silicate solution	Y
Sodium sulfate solutions	Z
Sodium sulfite solution (25% or less) *	Y
Sodium thiocyanate solution (56% or less) *	Y
Sorbitol solution	OS
Sulfonated polyacrylate solution	Z
Tetrasodium salt of Ethylenediaminetetraaacetic acid solution, see Ethylenediaminetetraacetic acid, tetrasodium salt solution	.....
Titanium dioxide slurry	Z
1,1,1-Trichloroethane	Y
1,1,2-Trichloro-1,2,2-trifluoroethane	Y
Trisodium salt of N-(Hydroxyethyl)ethylenediamine triacetic acid solution, see N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution.	.....
Urea, Ammonium mono- and di-hydrogen phosphate, Potassium chloride solution	#
Urea/Ammonium nitrate solution *	Z
Urea/Ammonium phosphate solution	Y
Urea solution	Z
Vanillan black liquor (free alkali content, 1% or less)	#
Vegetable protein solution (hydrolyzed) (if non-flammable and non-combustible)	OS
Water	OS
Zinc bromide, Calcium bromide solution, see Drilling brines (containing Zinc salts)	.....

Explanation of Symbols Used in this Table:
X, Y, Z—NLS Category of Annex II of MARPOL 73/78.
#—No determination of NLS status. For shipping on an oceangoing vessel, see 46 CFR 153.900(c).
OS—Other substances, at present considered to present no harm to marine resources, human health, amenities or other legitimate uses of the sea when discharged into the sea from tank cleaning or deballasting operations.
Abbreviations for Noxious Liquid Cargoes Used In This Table:
Cat—Pollution category.
NF—Non-flammable (flash point greater than 60 degrees C (140 degrees F) cc).
n.o.s.—Not otherwise specified.
ST—Ship type.
*—From the March 2012 Annex to the 2007 IBC Code.

Dated: August 6, 2013.

J. G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–19422 Filed 8–15–13; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL REGISTER

Vol. 78 Friday,
No. 159 August 16, 2013

Part III

Federal Communications Commission

47 CFR Parts 1 and 27
Service Rules for Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[WT Docket No. 12–357; FCC 13–88]

Service Rules for Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules to auction and license ten megahertz of paired spectrum at 1915–1920 MHz and 1995–2000 MHz—the H Block. This action implements the Congressional directive in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) that we grant new initial licenses for these spectrum bands through a system of competitive bidding. In so doing, we extend the widely deployed broadband Personal Communications Services (PCS) band, which is used by the four national wireless providers, as well as regional and rural providers, to offer mobile service across the United States. This additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the Nation's wireless networks keep pace with the skyrocketing demand for mobile services.

DATES: Effective September 16, 2013 except for 47 CFR 1.2105(a)(2)(xii), 27.12, and 27.17, which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB), Control Number 3060–1184. The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

We also note that several rules that are not being amended herein are subject to OMB review because they are imposing a new information collection upon a new group of respondents, i.e., the H Block licensees. The rules in question are 47 CFR 1.946 and 27.10. The Commission will publish a document in the **Federal Register** announcing the approval of information collection for those sections.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. A copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Judith B. Herman, Federal Communications Commission, Room 1–B441, 445 12th Street SW., Washington, DC 20554 or via the Internet at *Judith B. Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew Pearl of the Broadband Division, Wireless Telecommunications Bureau, at (202) 418–BITS or *Matthew.Pearl@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at (202) 418–0214, or via email at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *H Block Report and Order,* FCC 13–88, adopted on June 27, 2013 and released on June 27, 2013. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, facsimile (202) 488–5563, or via email at *fcc@bcpiweb.com.* The complete text is also available on the Commission's Web site at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0627/FCC–13–88A1.pdf.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or via email to *bmillin@fcc.gov.*

Synopsis

I. Introduction

1. Today we increase the Nation's supply of spectrum for flexible-use services, including mobile broadband, by adopting rules to auction and license ten megahertz of paired spectrum at 1915–1920 MHz and 1995–2000 MHz—the H Block. This action implements the Congressional directive in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) that we grant new initial licenses for these spectrum bands through a system of competitive bidding. In so doing, we extend the widely deployed broadband Personal Communications Services (PCS) band, which is used by the four national wireless providers, as well as regional and rural providers, to offer mobile service across the United States. This additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the Nation's wireless networks keep pace with the skyrocketing demand for mobile services.

II. Background

2. In February 2012, Congress enacted Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The Spectrum Act includes several provisions to make more spectrum available for commercial use, including through a system of competitive bidding, and to improve public safety communications. Among other things, the Spectrum Act states that the Commission, by February 23, 2015, shall allocate the H Block bands—1915–1920 MHz and 1995–2000 MHz—for commercial use, and through a system of competitive bidding grant new initial licenses for the use of each band, subject to flexible use service rules. Congress provided, however, that if the Commission determines that either of the bands cannot be used without causing harmful interference to commercial licensees in 1930–1995 MHz (PCS downlink), then the Commission shall not allocate such band for commercial use or grant new licenses for the use of such band. Additionally, Sections 6401(c)(4) and 6413 of the Spectrum Act specify that the proceeds from an auction of licenses in the 1995–2000 MHz band and in the 1915–1920 MHz band shall be deposited in the Public Safety Trust Fund. Section 6413 of the Spectrum Act specifies how the funds deposited into the Public Safety Trust Fund shall be used, and these purposes include the funding of (or reimbursement to the U.S. Treasury for the funding of) the nationwide, interoperable public safety broadband network by the First Responder Network Authority (FirstNet). The rules we adopt today will enable the H Block spectrum to be the first spectrum specified by the Spectrum Act to be licensed by auction, and thus likely will represent the first steps toward this statutory goal.

3. In response to the Spectrum Act and to help meet the growing demand for wireless spectrum, in December 2012, the Commission adopted the *H Block NPRM.* In the *H Block NPRM,* the Commission proposed to increase the Nation's supply of spectrum for mobile broadband by applying Advanced Wireless Services (AWS) flexible use wireless service rules in 10 megahertz of spectrum adjoining the widely deployed Broadband PCS (PCS) band, at 1915–1920 MHz and 1995–2000 MHz.

4. The *H Block NPRM* also represents a renewed Commission effort to bring this spectrum to market. The Commission first proposed licensing,

operating, and technical rules for this spectrum band in 2004. The 2004 *AWS–2 NPRM* sought comment on strict power and out-of-band emission (OOBE) limits for mobile transmissions in the 1915–1920 MHz band, because of concerns about potential harmful interference to PCS mobile reception. Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands, WT Docket No. 04–356, Notice of Proposed Rulemaking, 19 FCC Rcd 19263 (2004). In response to those proposals, most commenters agreed with such concerns. In 2008, the Commission issued a *Further Notice of Proposed Rulemaking* in which it sought to supplement the record. Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands, WT Docket Nos. 07–195, 04–356, Further Notice of Proposed Rulemaking, 23 FCC Rcd 9859 (2008). Those 2008 proposals included strict OOBE limits for the Lower H Block of $90 + 10 \log_{10}$ (P) dB, where (P) is the transmitter power in watts, within the PCS band, and a power limit of 23 dBm/MHz Equivalent Isotropically Radiated Power (EIRP). The record again reflected the commenters' calls for strict interference limits, particularly the OOBE limit, in 1915–1920 MHz to avoid harmful interference to PCS mobile receivers. In the *2008 NPRM,* the Commission also proposed prohibiting mobile transmissions in the 1995–2000 MHz band, and proposed the typical interference rule of an OOBE limit of $43 + 10 \log_{10}$ (P) dB, where (P) is the transmitter power in watts, for base and fixed stations for emissions outside of the 1995–2000 MHz band, and a power limit of 1640 watts EIRP for emissions less than 1 MHz and 1640 watts/MHz for emissions greater than 1 MHz in non-rural areas and double these power limits in rural areas.

5. The spectral proximity of the AWS–4 Band (2000–2020 MHz and 2180–2200 MHz) to the Upper H Block is relevant to the present discussion. The Commission's December 2012 *AWS–4 Report and Order* established licensing, operating, and technical rules for terrestrial AWS–4 operations in the 2000–2020 MHz and 2180–2200 MHz bands. The technical rules for the AWS–4 uplink at 2000–2020 MHz balanced the public interest benefits associated with potential uses of the relevant bands. Specifically, the Commission placed limited restrictions on AWS–4 uplink operations that allow for flexible use of the AWS–4 band while also potentially enabling full flexible downlink use of the 1995–2000 MHz band. The Commission explained that it based its determination on, among other things, the asymmetrical nature of broadband traffic (with more downlink than uplink being used), the fact that any limitations on AWS–4 were more than offset by the considerable increase in flexibility that the Commission was providing AWS–4 licensees by granting them terrestrial use rights under the Commission's part 27 rules. In sum, the Commission stated that the AWS–4 technical rules would enable both the AWS–4 band and the 1995–2000 MHz band to be used for providing flexible use services in the most efficient manner possible.

6. In December 2012, the Commission adopted the *H Block NPRM.* Comments on the *H Block NPRM* were due on February 6, 2013 and replies were due March 6, 2013. Fifteen comments and seven replies were filed in response to the *H Block NPRM.* In addition, as permitted under our rules, numerous *ex parte* presentations have been submitted into the record.

7. As observed in the *H Block NPRM,* circumstances have changed in the years since the Commission previously sought comment on the H Block spectrum bands. Wireless broadband technologies and the wireless broadband industry have evolved considerably. Additionally, Congress enacted the Spectrum Act. Accordingly, we provided notice that our determinations here would be based solely on the record developed in response to the *H Block NPRM,* and we invited parties to re-file in this docket earlier comments with any necessary updates.

III. Discussion

8. In this *H Block Report and Order,* we implement the Spectrum Act provisions pertaining to the H Block and build upon recent Commission actions to increase the availability of spectrum for wireless use by adopting rules to grant licenses for the H Block for terrestrial fixed and mobile use via a system of competitive bidding. As explained below, we adopt H Block terrestrial service, technical, and licensing rules that generally follow the Commission's part 27 flexible use rules, modified as necessary to account for issues unique to the H Block bands. Specifically, we take the following actions:

- We find that the Commission's prior action to allocate the H Block for Fixed and Mobile use satisfies the requirement of the Spectrum Act that we allocate this spectrum for commercial use.
- We find that we are required to adopt flexible use service rules for the H Block and that we are required to license this spectrum using a system of competitive bidding, unless we determine that either the 1915–1920 MHz band or the 1995–2000 MHz band cannot be used without causing harmful interference to the broadband PCS downlink band at 1930–1995 MHz.
- We find that, consistent with the technical rules we adopt, the use of both the 1915–1920 MHz band and the 1995–2000 MHz band can occur without causing harmful interference to broadband PCS downlink operations at 1930–1995 MHz.
- We adopt as the H Block band plan the 1915–1920 MHz band paired with the 1995–2000 MHz band, configured as 5 + 5 megahertz blocks, and licensed on an Economic Area (EA) basis.
- We adopt technical rules for the H Block, including rules governing the relationship of the H Block bands to adjacent and nearby bands, with a particular focus on adopting rules for the 1915–1920 MHz band that protect operations in the broadband PCS band at 1930–1995, as required by the Spectrum Act.
- We adopt technical rules that authorize the 1915–1920 MHz band for mobile and low power fixed operations (uplink) and the 1995–2000 MHz band for base and fixed operations (downlink).
- We adopt cost sharing rules that require H Block licensees to pay a *pro rata* share of expenses previously incurred by UTAM, Inc. and by Sprint in clearing incumbents from the 1915–1920 MHz band and the 1995–2000 MHz band, respectively.
- We adopt a variety of flexible use regulatory, licensing, and operating rules for H Block licensees.
- We adopt procedures to assign H Block licenses through a system of competitive bidding.

A. Spectrum Act Provisions for 1915–1920 MHz and 1995–2000 MHz

9. The Spectrum Act, among other requirements, provides that the Commission shall allocate for commercial use and license using a system of competitive bidding the H Block no later than February 23, 2015.

10. Section 6401(b) of the Spectrum Act provides that for certain spectrum bands, including H Block, the Commission must allocate the spectrum for commercial use and grant new initial licenses for that spectrum through a system of competitive bidding by February 23, 2015. Middle Class Tax Relief and Job Creation Act of 2012, Section 6401(b), 47 U.S.C. 1451(b).

However, section 6401(b) also provides that the Commission may not allocate the H Block for commercial use nor grant H Block licenses should it determine that such spectrum cannot be used without causing harmful interference to commercial mobile service licensees operating in the frequencies between 1930 megahertz and 1995 megahertz.

11. To implement these requirements, in the *H Block NPRM,* the Commission sought comment on the Spectrum Act's four main statutory elements relating to the H Block: (1) Allocation for commercial use; (2) flexible use; (3) assignment of licenses; and (4) a determination regarding interference. Below, we address the relevant comments and discuss our conclusions.

1. Allocation for Commercial Use

12. The Spectrum Act requires the Commission to allocate the H Block spectrum bands, 1915–1920 MHz and 1995–2000 MHz, for commercial use. As the Commission observed in the *H Block NPRM,* the Spectrum Act does not define the phrase, ''allocate . . . for commercial use.'' The Commission posited that the Spectrum Act requires us to make any necessary changes to the Non-Federal Table of Allocations to reflect that the H Block bands could be used commercially by, and licensed to, non-Federal entities under flexible use service rules unless the band cannot be used without causing harmful interference to commercial mobile service licensees in the PCS downlink band. The Commission observed that the H Block spectrum's pre-existing allocation was for non-Federal, Fixed and Mobile use on a primary basis and designated for use in the commercial PCS/AWS bands, and that this prior allocation appeared to be fully consistent with section 6401 of the Spectrum Act. The Commission sought comment on this tentative conclusion. In response, commenters agreed with the Commission's tentative conclusion that the H Block's existing allocation met the requirements of the Spectrum Act.

13. We find that the existing allocation of the H Block for non-Federal Fixed and Mobile use on a primary basis meets the ''commercial use'' allocation requirement of section 6401(b)(1)(A) of the Spectrum Act. As the record indicates, the Commission has already allocated both blocks of the H Block spectrum for non-Federal Fixed and Mobile use on a primary basis. Specifically, in 2004, the Commission adopted the present spectrum pairing. Thus, no further action to allocate the H Block spectrum bands for commercial use pursuant to the Spectrum Act is necessary.

2. Flexible Use

14. The Spectrum Act also requires the Commission to license the H Block under flexible use service rules. In the *H Block NPRM,* the Commission proposed that any service rules adopted for the H Block permit a licensee to employ the spectrum for any non-Federal use permitted by the United States Table of Frequency Allocations, subject to our part 27 flexible use and other applicable rules, including service rules to avoid harmful interference. Part 27 licensees must also comply with other Commission rules of general applicability. *See* 47 CFR 27.3; *see* also infra section III.E.6. (Regulatory Issues, Other Operating Requirements). In addition, flexible use in international border areas is subject to any existing or future international agreements. *See infra* section III.C.3. (Canadian and Mexican Coordination). Thus, the Commission proposed the H Block may be used for any fixed or mobile service that is consistent with the allocations for the band. Commenters uniformly supported this proposal.

15. We adopt the Commission's proposal to license the H Block under flexible use service rules. We find the Spectrum Act's direction on this matter clear and direct—we are required to grant licenses ''subject to flexible-use service rules.'' Accordingly, adopting the flexible use service rules for the H Block, which we do in the sections below, will give effect to the legislative mandate. Adoption of flexible use service rules, moreover, is consistent with prior congressional and Commission actions that promote flexible spectrum allocations and the record before us. As CCA comments, flexible use allows licensees to innovate and ''rapidly respond to changing consumer demands for wireless services . . . [and] encourage[s] the similarly timely deployment of innovative commercial wireless services to the public.''

3. Assignment of Licenses

16. The Spectrum Act mandates that the Commission grant new initial licenses for the 1915–1920 MHz and 1995–2000 MHz bands through a system of competitive bidding pursuant section 309(j) of the Communications Act. In the *H Block NPRM,* the Commission proposed applying competitive bidding rules to resolve any mutually exclusive applications accepted for H Block licenses. Parties uniformly supported the Commission's proposal to assign the H Block spectrum through a system of competitive bidding. For example, MetroPCS voiced its support that the Commission was correctly interpreting the Spectrum Act and that the H Block should be licensed through competitive bidding. We agree and find that the Spectrum Act's requirement that we grant H Block licenses ''through a system of competitive bidding'' clear and unambiguous. Thus, as detailed below, we adopt rules to govern the use of a competitive bidding process for licensing the 1915–1920 MHz and 1995–2000 MHz bands.

4. Determination of No Harmful Interference to the 1930–1995 MHz Band

17. The Spectrum Act states that the Commission may not allocate for commercial use or license the H Block if the Commission ''determines that'' the H Block ''cannot be used without causing harmful interference to commercial mobile licensees'' in the 1930–1995 MHz band (PCS downlink band). Neither the Spectrum Act nor the Communications Act defines the term ''harmful interference.'' In performing its statutory role to maximize the public interest in the spectrum, the Commission has adopted a definition for this term, as well as for the unmodified term ''interference.'' Commission rule 2.1(c) defines ''interference'' to mean ''[t]he effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radiocommunication system, manifested by any performance degradation, misinterpretation, or loss of information which could be extracted in the absence of such unwanted energy.'' That same rule defines ''harmful interference'' to mean ''[i]nterference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with [the International Telecommunications Union] Radio Regulations.'' In the *H Block NPRM,* the Commission proposed to use this definition of harmful interference in performing the analysis required by the Spectrum Act. No party opposed the use of this definition.

18. We find it appropriate to use the Commission's existing definition of harmful interference. We presume that Congress was aware of this rule, defining both interference and harmful interference, when it crafted the Spectrum Act and used the term harmful interference. Because the Spectrum Act offers no alternative to the Commission's pre-existing definition of

harmful interference, we believe it reasonable to conclude that Congress intended for it to apply to the situation here. *See Hall* v. *U.S.,* 132 S.Ct. 1882, 1889 (2012) (''We assume that Congress is aware of existing law when it passes legislation[.]'' (internal quotation marks omitted)). Applying the existing definition of harmful interference to the Spectrum Act provision at issue, we find that we may not allocate for commercial use or license the H Block if we determine that the H Block cannot be used without causing serious degradation, obstruction, or repeated interruption to commercial mobile licensees in the PCS downlink band. We further find that we need not set technical rules so restrictive as to prevent all instances of interference, as opposed to harmful interference. Determining *ex ante* when operations in one band will seriously degrade, obstruct, or repeatedly interrupt operations in another band necessarily involves the Commission examining the particular interference scenario that is likely to arise and exercising its predictive judgment, which is entitled to deference. *See Northpoint Technology, Ltd.* v. *FCC,* 414 F.3d 61, 69 (D.C. Cir. 2005) (deferring to the Commission's interpretation of ''harmful interference'' as the phrase was applied under the Rural Local Broadcast Signal Act of 1999); *see also American Radio Relay League, Inc.* v. *FCC,* 524 F.3d 227, 233 (D.C. Cir. 2008) (''considerable deference'' on ''highly technical question'' involving harmful interference). For example, in 1999, Congress adopted a statute that directed the Commission to ''ensure that no facility [to be newly] licensed or authorized under the [newly enacted Rural Local Broadcast Signal Act of 1999] . . . cause [] harmful interference to the primary users of that spectrum.'' In determining technical rules to ensure that the incumbent primary operators were not subject to harmful interference, the Commission established interference parameters designed such that the presence of the new operators' signals ''would not be perceptible to the [incumbent operator's] customer in most cases.'' The DC Circuit found this ''qualitative requirement'' to represent a reasonable application of the Commission's harmful interference definition. *Northpoint,* 414 F.3d at 69–71. In this similar statutory circumstance, we now establish technical rules (below) for the H Block that will permit use of this block without causing harmful interference (although not necessarily eliminating all interference) to PCS downlink operations.

a. Upper H Block: 1995–2000 MHz

19. The Commission allocated the 1995–2000 MHz band for fixed and mobile use in 2003. In 2004, this spectrum was designated for PCS/AWS base station operations and the Commission proposed service rules. Before the *H Block NPRM* in December 2012, no party had filed technical data or analysis indicating that base station operations in the Upper H Block would cause harmful interference to licensees in the PCS downlink band. Accordingly, in the *H Block NPRM,* the Commission tentatively concluded that base station operations in the Upper H Block posed no likelihood of harmful interference to PCS operations in the 1930–1995 MHz band and that licensing of the Upper H Block could proceed.

20. In light of the technical rules we impose on operations in the Upper H Block, described below, we conclude that operations in the 1995–2000 MHz band will not cause harmful interference to PCS operations in the 1930–1995 MHz band. The rules we adopt herein determine the Upper H Block will be used for base station (*i.e.,* downlink) transmissions. As the 1930–1995 MHz PCS band is used for downlink transmissions, the 1995–2000 MHz band, in many respects, will operate as an extension of the PCS band. As explained below, in contrast to an uplink band adjacent to a downlink band, similarly used bands (*i.e.,* downlink next to downlink) generally do not raise difficult interference scenarios. More specifically, the technical rules we adopt include power limits and OOBE limits for operations in the Upper H Block that are comparable to limits already imposed upon PCS licensees governing the transmission of electromagnetic signals into adjacent PCS bands to prevent harmful interference. As the technical rules we impose for the Upper H Block reflect similar technical constraints as the existing PCS rules—and these rules have allowed robust service to develop in these bands—we find no basis to conclude that the 1995–2000 MHz band ''cannot be used without causing harmful interference'' to PCS downlink operators at 1930–1995 MHz. Additionally, in response to the *H Block NPRM,* no commenters raised concerns about the potential for harmful interference from the Upper H Block into the 1930–1995 MHz band. In sum, because the 1995–2000 MHz band is adjacent to another downlink band, the technical rules we adopt are comparable to the existing PCS rules for preventing harmful interference and the record demonstrates no concern for harmful interference from the 1995–2000 MHz band into PCS operations in 1930–1995 MHz, we determine the Upper H Block can be allocated for commercial use, assigned via a system of competitive bidding, and licensed subject to flexible use service rules without causing harmful interference to PCS pursuant to the Spectrum Act.

b. Lower H Block: 1915–1920 MHz

21. In designating the 1915–1920 MHz band for PCS/AWS mobile operations in 2004, the Commission concluded that any harmful interference from the Lower H Block to the PCS downlink band (*i.e.,* 1930–1995 MHz) could be addressed through service and technical rules. Subsequently, in the *H Block NPRM,* the Commission tentatively concluded that it would be possible to license the Lower H Block under flexible service rules without causing harmful interference to commercial mobile licensees in the 1930–1995 MHz band. Acknowledging the prior concerns with mobile operations in 1915–1920 MHz, the Commission sought comment on the proposed band plan and service rules, and it specifically sought technical analysis on the potential for harmful interference into the PCS downlink band. In response, parties submitted four technical studies and offered numerous comments discussing the potential for harmful interference from Lower H Block operations into operations in the 1930–1995 MHz band. As detailed below, commenters suggest that, with appropriate technical rules, deployment in the Lower H Block can occur without causing harmful interference to the 1930–1995 MHz PCS band.

22. We adopt the Commission's tentative conclusion set forth in the *H Block NPRM,* and determine that operations in the 1915–1920 MHz band, subject to appropriate technical rules, will not cause harmful interference to PCS operations in the 1930–1995 MHz band. As we explain below, in designating the Lower H Block for uplink use, we must address the issue of uplink spectrum in close frequency proximity to the downlink spectrum in the 1930–1995 MHz PCS band. Our analysis is based on our prior findings with respect to similar services, our experience evaluating the probabilistic nature of mobile-to-mobile interference, and our evaluation of the technical studies submitted into the record that examine this specific scenario. Notably, the proponents of these studies acknowledge that the interference scenario at issue—namely, mobile-to-

mobile interference between mobile transmitters operating in the Lower H Block and mobile receivers operating in the PCS downlink band—is inherently a probabilistic one. That is, a number of low probability events all need to occur before an actual Lower H Block transmission would seriously degrade, obstruct, or repeatedly interrupt the ability of the PCS mobile device to receive the PCS signal. As such, the rules we establish below are designed to prevent harmful interference. These rules are not, nor could they reasonably be, designed to prevent all possible instances of interference generally. In sum, we find the technical rules we adopt below will enable commercial use of the Lower H Block without causing harmful interference to PCS operations in the 1930–1995 MHz band. Accordingly, we find no basis to conclude that the 1915–1920 MHz band ''cannot be used without causing harmful interference'' to PCS downlink operators at 1930–1995 MHz. We therefore determine, consistent with our findings above, that the Lower H Block can be allocated for commercial use, assigned via a system of competitive bidding, and licensed subject to flexible use service rules pursuant to the Spectrum Act. Consequently, we reject Savari's proposal that we make the 1915–1920 MHz band a combination unlicensed PCS (UPCS) and licensed low power band. *See* Savari Comments at 14; *infra* Section III.B.1. (Band Plan, Block Configuration).

B. Band Plan

23. Band plans establish parameters and provide licensees with certainty as to the spectrum they are authorized to use. Here, Congress has identified the H Block bands—1915–1920 MHz and 1995–2000 MHz—as the frequencies for the band plan. To establish the specific band plan for these frequencies, the Commission must determine the block configuration, whether to license the blocks on a geographic area basis and, if so, the appropriate service area. In the *H Block NPRM,* the Commission proposed licensing the H Block as paired 5 megahertz blocks, with the Upper H Block used for high power base stations and the Lower H Block used for mobile and low power fixed operations. The Commission also proposed licensing the H Block on a geographic licensing scheme based on Economic Areas (EAs). Finally, the Commission also sought comment on how best to license spectrum in the Gulf of Mexico. The Commission sought comment on these proposals, including on their associated costs and benefits.

24. In the band plan, based on the record before us, we adopt the H Block band plan of 1915–1920 MHz paired with 1995–2000 MHz, configured as 5 + 5 megahertz blocks, and will license the H Block on an EA basis, including for the Gulf of Mexico. In so doing, we find that 1915–1920 MHz shall be used for mobile and low power fixed (*i.e.,* uplink) operations and 1995–2000 MHz shall be used for base station and fixed (*i.e.,* downlink) operations.

1. Block Configuration

25. In 2004, the Commission designated the H Block for licensed fixed and mobile services, including advanced wireless services. The Commission further decided to pair 1915–1920 MHz with 1995–2000 MHz because it found that doing so would promote efficient use of the spectrum and allow for the introduction of commercial wireless mobile and fixed services. The Commission also observed that it would be advantageous to use the Lower H Block for low power or mobile operations as the adjacent 1910–1915 MHz band is used by PCS mobile operations, and that high power base stations in the band could result in harmful interference to operations in the PCS band.

26. In the *H Block NPRM,* the Commission observed there was no apparent reason to alter the proposed pairing or use of the 1915–1920 MHz and 1995–2000 MHz bands. To ensure the PCS bands were adequately protected from harmful interference due to operations in the Lower H Block, the Commission also proposed to prohibit high power base station operations in 1915–1920 MHz. In response to these proposals, commenters generally supported the Commission's goal of maintaining the pairing of the H Block spectrum and the designated uplink/downlink bands. Additionally, some commenters addressed the Commission's inquiry for alternative configurations of the H Block, which we discuss below. No party presented cost or benefit data in support of its position.

27. We adopt the proposal to maintain the pairing of 1915–1920 MHz with 1995–2000 MHz. In doing so, we observe that Congress, in enacting the Spectrum Act and directing us to license these bands, did not express disagreement with the Commission's earlier determination to pair these bands. We find this approach in the public interest and find that the benefits of this approach likely outweigh any potential costs. As several commenters discuss, pairing the lower and upper portions of the H Block will promote the efficient use of this spectrum and allow for the proliferation of wireless services. In addition, consistent with the record, we expect that adopting the paired spectrum band plan will facilitate the deployment of wireless fixed and mobile services in rural areas. Further, by licensing the H Block as a paired band, we allay the concerns some commenters expressed about the risk of a stranded, standalone block of spectrum that may be unsuitable for mobile broadband use.

28. Additionally, configuring the H Block as a 5 + 5 megahertz band will allow for flexibility and efficiency in the deployment of wireless services and technologies. Five megahertz blocks can support a variety of wireless broadband technologies. While we do not prescribe a specific technology for use in the H Block, we expect that most users of the band will deploy 4G or 3G Frequency Division Duplex (FDD) technologies. Various globally-standardized technologies, including Wideband-Code Division Multiple Access (W–CDMA), High Speed Packet Access (HSPA), and their variants, use 5 + 5 megahertz paired blocks when deployed as FDD. Long Term Evolution (LTE), which commenters indicate is the most likely technology to be deployed in the H Block in the near term, supports a variety of block sizes, including multiples of 5 megahertz. Thus, as C Spire comments, adopting a 5 + 5 megahertz band plan allows an operator using today's LTE technology to deploy in the band.

29. In adopting this band plan, we also adopt the proposal to prohibit high powered fixed and base station operations in the Lower H band, *i.e.,* 1915–1920 MHz. Limiting base station operations to the 1995–2000 MHz band will reduce the potential for harmful interference to PCS operations. Because the PCS spectrum immediately proximate to the Lower H Block is used for mobile operations, a high powered signal emanating from 1915–1920 MHz, such as from a base station, may cause harmful interference due to receiver overload. As we discuss below and have concluded previously, the power limits necessary to avoid this potential problem preclude the use of base stations in this band. Therefore, based on the record before us, we determine the 1915–1920 MHz band will be used for mobile operations (uplink) and the 1995–2000 MHz band will be used for base station operations (downlink).

30. *Alternatives.* Our decision today to pair 1915–1920 MHz band with the 1995–2000 MHz band moots concerns that some commenters have raised regarding the possibility of either band standing alone. Specifically, by pairing

these two spectrum bands together, neither the Lower H Block nor Upper H Block will become a standalone ''stranded'' five megahertz block. In addition, we find it unnecessary to address Savari's suggestion that, as part of its plan to have the Commission license the H Block as a low power guard manager band, the Commission permit the H Block licensee to partner the 1915–1920 MHz band with unlicensed PCS channels in the adjacent 1920–1930 MHz band. Because we decline to adopt Savari's predicate proposal that the H Block be licensed under a low power guard band manager approach, we need not reach the issue of ''partnership'' with adjacent UPCS channels.

31. *Interoperability.* As discussed below, the H Block spectrum is adjacent to the PCS spectrum and the technical rules we adopt for the H Block would permit the H Block effectively to be operated as an extension of the PCS band. The Commission historically has been interested in promoting interoperability, beginning with the licensing of cellular spectrum. Although the Commission did not adopt a rule to require band-wide interoperability for PCS, it stressed the importance of interoperability by acknowledging industry efforts to establish voluntary interoperability standards. We continue to believe that interoperability is an important aspect of future deployment of mobile broadband services and generally serves the public interest. We note that no party has requested that we impose an interoperability requirement here to further the public interest. We strongly encourage all stakeholders in this ecosystem to develop new equipment in a manner that promotes, rather than hinders, interoperability. We intend to closely monitor the development of the equipment market in the H block and neighboring PCS band as well as other future developments in this band in order to assess whether additional action will need to be taken to promote interoperability.

2. Service Area

a. Geographic Area Licensing

32. In the *H Block NPRM,* the Commission proposed to adopt a geographic area licensing approach for the H Block, reasoning that such an approach is well-suited for the types of fixed and mobile services that would likely be deployed in these bands.

33. We adopt a geographic area licensing scheme for the H Block for the reasons that the Commission articulated in the *H Block NPRM,* namely that it is well-suited for the types of fixed and mobile services that we expect to be deployed in the H Block and will maintain consistency with numerous other bands. Given the record before us, we conclude that this approach is in the public interest and that the benefits of geographic area licensing likely outweigh any potential costs. We find it particularly significant that geographic area licensing in the H Block is consistent with the Commission's licensing approach for other similar commercial bands, including AWS–1, Broadband PCS, Commercial 700 MHz, and AWS–4. As the Commission has observed in the past, geographic licensing also carries many additional benefits, including: (1) Providing licensees with substantial flexibility to respond to market demand, which results in significant improvements in spectrum utilization and allows new and innovative technologies to rapidly develop; (2) permitting economies of scale because licensees can coordinate usage across an entire geographic area to maximize spectrum use; and (3) reducing regulatory burdens and transaction costs because wide-area licensing does not require site-by-site approval, thus allowing a licensee to aggregate its service territories without incurring the administrative costs and delays associated with site-by-site licensing. Further, geographic area licensing in the H Block will allow the Commission to assign initial licenses through a system of competitive bidding in accordance with the Spectrum Act. Finally, we observe that the record supports geographic area licensing for the H Block, which no commenter has opposed.

b. Service Area Size

34. In the *H Block NPRM,* the Commission proposed to license the H Block on an Economic Area (EA) basis. The Commission sought comment on this approach and asked commenters to discuss and quantify the economic, technical, and other public interest considerations of any particular geographic licensing scheme for this band, as well as the impact that any such scheme would have on rural service and competition. Alternatively, the Commission sought comment on nationwide licensing for the H Block, including whether it would maximize or limit the opportunity for licensees to provide the widest array of services and would provide the necessary incentives to expand existing technologies and create new ones. The Commission requested that commenters compare the advantages and disadvantages of nationwide licensing to those of EA licensing. Further, the Commission sought comment on licensing areas smaller than EAs for the H Block, including whether it would facilitate use by smaller and rural operators and whether the benefits of such an approach would outweigh the potential diseconomies of scale. Finally, the Commission requested comment on whether there are any other geographic licensing methods for the H Block that would better meet the Commission's goals.

35. Comments on the proposal were mixed. Some commenters, including both small and large carriers, supported EA-based licensing, while other commenters opposed EAs and advocated license areas smaller than EAs. While one commenter supported either nationwide or large regional (*i.e.,* Major Economic Areas) licenses, several other commenters opposed such a licensing scheme. One party also supported ''roadway or highway license[s].'' No party, however, provided cost or benefit data to support its position.

36. We will license the H Block on an EA basis. As explained below, licensing based on EAs has been used for similar bands and is a useful and appropriate geographic approach. We believe that licensing the H Block on an EA basis will help us to meet several statutory goals, including providing for the efficient use of spectrum; encouraging deployment of wireless broadband services to consumers; and promoting investment in and rapid deployment of new technologies and services. Given the record before us, we conclude that licensing the H Block on an EA basis is in the public interest and that the benefits of this approach likely outweigh any potential costs.

37. We believe that licensing on an EA-basis strikes the appropriate balance in license size for this band. We find it particularly significant that the two bands adjacent to the H Block, PCS G Block and AWS–4, are licensed on an EA basis. As the record indicates, adopting the same size geographic area as is used in adjacent bands may encourage rapid deployment in and use of the spectrum. Thus, to the extent that licensees for either of those bands ultimately obtain licenses for the H Block, EAs may present opportunities for efficiencies that other geographic license sizes would not offer. For example, AT&T states that EA-based licensing here would be consistent with the Commission's adoption of EA-based licensing in other spectrum bands that will likely be used for mobile broadband. Sprint, moreover, states that the consistent use of EA-based licensing

in PCS, AWS–4, and now H Block will encourage quick deployment in the H Block spectrum.

38. We also believe that licensing this band using EAs will facilitate access to spectrum for both small and large carriers. We believe that it will facilitate access by smaller carriers because EAs are small enough to provide spectrum access opportunities to such carriers. At the same time, EAs are large enough that large carriers can aggregate them up to larger license areas, including into Major Economic Areas (MEAs) and Regional Economic Area Groupings (REAGs), thus achieving economies of scale.

39. Several commenters supported EA-based licensing. For example, as stated above, AT&T and Sprint support EA-based licensing because this band is adjacent to other bands that have been licensed on an EA-basis. MetroPCS explains that EA-based licensing helps to ensure that the bidder that most highly values the spectrum in a particular area acquires that license. C Spire argues that EA-based licensing would ''allow for efficient geographic aggregation of licenses. And CCA asserts there are numerous advantages to EA-based licensing, including that it provides ''rural and regional carriers [with] reasonable opportunities to bid.''

40. Other commenters opposed EAs as either too large or too small. Commenters proposing smaller geographic license areas advocated for Cellular Market Areas (CMAs), including both Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). They argued that small and rural carriers cannot afford EAs and that, because EAs include both urban and rural areas, large carriers that purchase EAs can focus their buildout efforts on urban centers to the detriment of rural customers. Another commenter argued that that the H Block should be licensed on a larger-than-EA basis either on a nationwide basis or on a Major Economic Area (MEA).

41. On balance, we are not persuaded that we should adopt geographic license areas smaller or larger than EAs. Rather, we find that—for the H Block—licensing the spectrum on an EA basis best balances the Commission's public interest goals of encouraging widespread geographic buildout (including in rural areas) and providing licensees with sufficient flexibility to scale their networks. We find this particularly so because, as explained above, EA-based licensing will make H Block consistent with two adjacent bands. Moreover, we note that CMAs do not ''nest'' easily into EAs, which could make it more difficult for licensees to aggregate license areas to match the neighboring bands. Finally, to the extent that an entity desires to obtain access to H Block spectrum for less than an EA geographic area, secondary market transactions (e.g. partitioning) offer a possible way to obtain such access.

42. Finally, we observe that Savari argues that, if the FCC adopts EA-based licensing, it should issue ''roadway licenses'' that cover highways and areas near highways; areas that, it implies, may lie between EAs. We disagree. To the extent that this commenter suggests that the FCC should issue roadway licenses between EAs, we are not aware of geographic areas that exist between EAs. More generally, we believe that EA, rather than roadway, licenses will lead to more widespread service to consumers in this band. Further, we believe the public interest lies in covering as much area as possible given the economics of the band. In many cases, even in very rural areas, this may extend beyond roadways.

3. Licensing the Gulf of Mexico

43. In the *H Block NPRM,* the Commission sought comment on whether and, if so, how to license the Gulf of Mexico. The Commission sought comment on whether the Gulf should be included as part of larger service areas, or whether the Gulf should be licensed separately.

44. We will license the H Block for the Gulf of Mexico. We find it appropriate to follow Commission precedent from the AWS–1 and AWS–4 bands, both of which licensed the Gulf as a separate EA license. Moreover, the only party who commented on this issue supports the proposal to make available an EA license for the Gulf. Finally, we determine to apply the existing definition of the Gulf of Mexico EA contained in section 27.6 of the Commission rules when licensing the Gulf. Specifically, the Gulf of Mexico service area is comprised of the water area of the Gulf of Mexico starting 12 nautical miles from the U.S. Gulf coast and extending outward.

C. Technical Issues

45. Pursuant to the statutory direction of the Communications Act of 1934, as amended, the Commission adopts rules for commercial spectrum in a manner that furthers and maximizes the public interest. Notably, when developing policies for a particular band, the Commission looks at other bands that might be affected, particularly the adjacent bands. Consequently, the Commission must often balance competing interests of adjacent bands, and potentially competing public interest considerations, when crafting rules. Because the rules for one band, particularly the interference protection rules, affect the use and value of other bands and thus the public interest benefits that can be realized through the use of those adjacent bands, we take a holistic view when establishing the technical rules for each spectrum band.

46. In this section, we adopt the technical operating rules (*e.g.,* interference rules) that will govern H Block operations and licensees. In general, our aim in establishing technical rules is to maximize the flexible use of spectrum while appropriately protecting operations in neighboring bands. Here, we also specifically consider our statutory obligations set forth in the Spectrum Act with respect to the 1930–1995 MHz broadband PCS band, which specifically requires us to determine whether either of the H Block bands ''cannot be used without causing harmful interference to commercial mobile service licensees in the [1930–1995 MHz PCS band].''

47. We base the technical rules we adopt below on the rules for the AWS and PCS spectrum bands, which have similar characteristics to the H Block and that we therefore expect would permit optimal use of the H Block by its licensees. In applying these rules to the H Block, we specifically adopt rules to adequately protect operations in adjacent bands, including the existing 1930–1995 MHz broadband PCS downlink band and the 2000–2020 MHz AWS–4 uplink band. Finally, given the record before us and the analyses provided below, we conclude that the benefits of the technical rules we adopt herein likely outweigh any potential costs.

1. Upper H Block: 1995–2000 MHz

48. The Upper H Block is immediately above the 1930–1995 MHz PCS band, which is subject to the Spectrum Act's harmful interference provision. The PCS band currently is used for base station transmit/mobile receive (*i.e.,* downlink) purposes. In the *H Block NPRM,* the Commission tentatively concluded that operating base stations in 1995–2000 MHz would be compatible with similar use of the spectrum in the 1930–1995 MHz band, and that more restrictive technical standards than those established for other AWS stations in similar bands would be unnecessary to protect the PCS band from harmful interference. No technical concerns were raised in the record about interference between the Upper H Block and PCS base stations operating below 1995 MHz. As stated above, the 1995–2000 MHz Upper H band will serve as

downlink spectrum and is thus compatible with adjacent downlink operations below the band.

49. The Upper H Block is also situated immediately below the 2000–2020 MHz band, which is allocated on a co-primary basis for Fixed, Mobile, and Mobile Satellite (Earth-to-space, *i.e.,* for mobile transmit/satellite or base station receive), and is licensed for both Mobile Satellite Service (MSS) and AWS–4 terrestrial wireless services. The Commission recently adopted service rules that permit use of the 2000–2020 MHz band for terrestrial mobile-to-base (uplink) transmissions. In so doing, the Commission concluded that certain protections were needed to avoid harmful interference between the Upper H Block and 2000–2020 MHz band. Having weighed various public interest considerations, the Commission imposed certain limited power restrictions and out-of-band emission (OOBE) limits on AWS–4 uplinks to preserve the capability for full flexible use of the Upper H Block. Additionally, the Commission concluded that 2 GHz MSS operators and AWS–4 licensees must accept harmful interference from future, lawful operations in the Upper H Block due to either Upper H Block OOBEs into the 2000–2005 MHz portion of the AWS–4 uplink band or to Upper H Block in-band power (receiver overload) into the AWS–4 uplink band. DISH Network Corp.'s (DISH) AWS–4 and 2 GHz MSS subsidiaries accepted the *Order of Proposed Modification,* which accompanied the *AWS–4 Report and Order* and which, thus, included these requirements. Commission staff subsequently issued an *Order of Modification* and issued modified licenses. Nothing in our discussion below is intended to revisit these determinations.

a. Upper H Block Power Limits

50. We adopt transmitter power limits for the Upper H Block that will maximize the full flexible use of the spectrum while ensuring against harmful interference to adjacent PCS operations and, in the case of the AWS–4 band, adequately protecting adjacent operations due to receiver overload. Receiver overload may result when signals outside of the receiver's nominal bandwidth cause the receiver to experience an increased noise level or produce non-linear responses. In setting power limits, we balance the power necessary to ensure successful communication in the band against the level of interference that adjacent services can tolerate based on their operational needs and the public interests served. In doing so here, we ensure against harmful interference to the adjacent PCS band and, in the case of the adjacent AWS–4 band, set a power limit necessary to ensure successful communication by H Block licensees based on the public interest balancing the Commission established in the *AWS–4 Report and Order.*

51. In the *H Block NPRM,* the Commission proposed and sought comment on adopting the standard base station power limits applicable to AWS and PCS stations. These power limits are 1640 watts equivalent isotropically radiated power (EIRP) for emissions with less than a 1 MHz channel bandwidth and 1640 watts/MHz for emissions greater than 1 MHz in non-rural areas. In rural areas, *i.e.,* counties with population densities of 100 persons or fewer per square mile, the power limits are 3280 watts EIRP for emissions with less than a 1 MHz channel bandwidth and 3280 watts/MHz EIRP for emissions greater than 1 MHz. The AWS and PCS rules also require providers operating in excess of the 1640 watts/1640 watts/MHz EIRP to coordinate with adjacent block licensees within 120 km. Except as detailed below, commenters generally supported these proposed power limits.

52. For H Block operations in the 1995–2000 MHz band, we adopt a power limit for operations in non-rural areas of 1640 watts EIRP for emissions less than 1 MHz and 1640 watts/MHz for emissions greater than 1 MHz. We adopt a power limit for operations in rural areas of 3280 watts EIRP for emissions less than 1 MHz and 3280 watts/MHz for emissions greater than 1 MHz. For purposes of this rule, a rural area refers to a county with a population density of 100 persons or fewer per square mile. Further, we allow operations in excess of the EIRP of 1640 watts and 1640 watts/MHz limits after coordination with adjacent PCS G Block licensees within 120 km, as is allowed for similar operations in the AWS and PCS services. We adopt these power limits because they are the same as those for base stations in other AWS services, including AWS–1 services and the recently adopted limits for AWS–4 base stations and substantially the same as for PCS base stations. Most parties that commented on this issue supported adopting these power limits. As both Sprint and U.S. Cellular observed, the Commission has consistently proposed and adopted these power limits for other services. Additionally, Sprint commented that such power levels will provide adequate protection for PCS licensees in neighboring spectrum bands. No party claimed otherwise. Based on the record and our prior experience with similar services, we conclude that these power limits are consistent with the Spectrum Act's requirement for avoiding harmful interference to the adjacent PCS band. Further, because these limits reflect established measures of efficient use of spectrum for similar services in other bands, we believe they are consistent with the goals of ensuring full, robust, commercial service for mobile broadband, as set forth in the *AWS–4 Report and Order.*

53. In adopting these power limits for H Block base stations, we acknowledge that wording in the *H Block NPRM* may have led to confusion on the part of one commenter (DISH). In the *H Block NPRM,* the Commission specifically ''propose[d] to adopt the standard base station power limits that apply to AWS and PCS stations,'' but did not include the power density limit for emissions greater than 1 megahertz in summarizing the existing rules, despite the fact that the Commission's AWS and PCS rules explicitly include such limits. In supporting the proposed power limits, Sprint correctly referenced ''standard power limits of 1640 watts/MHz for non-rural areas and 3280 watts/MHz for non-rural areas.'' In its Reply, DISH claimed that the Commission intended for the Upper H Block power to be measured across the entire 5 megahertz of the band, and that Sprint was improperly seeking to measure the power across one megahertz, thereby increasing the radiated power by 7 dB within the Upper H Block. We disagree. The Commission's intent was to propose Upper H Block power limits that would be measured across one megahertz (for emissions greater than one megahertz). In any event, we now determine to measure power limits in a manner consistent with the PCS and AWS bands. Accordingly, we now adopt the standard AWS base station power limits, as described above, based on the record presented in response to the *H Block NPRM.*

54. Further, to the extent DISH may be arguing for lower power limits than those in other AWS bands and the PCS band, its argument is unsupported and misplaced. DISH's statement that some existing PCS equipment (we are not aware of equipment presently existing for the H Block band) may operate at lower maximum power levels is not in and of itself dispositive of the appropriate maximum permissible power levels. Rather, this argument appears simply to present an example of PCS equipment operating well within the applicable PCS rules.

55. We also reject DISH's argument that symmetrical power reductions for

the H Block are necessary. DISH suggested that, should the Commission determine that (1) full-power operations of the Lower H Block would cause harmful interference into the PCS band and, (2) it is necessary to mediate this effect by reducing the power limits of the mobiles transmitting in the Lower H Block, then the Commission should adopt similarly reduced power limits for the Upper H Block (1995–2000 MHz). DISH explained that, ''[f]or instance, if the Commission decides to limit the H Block uplink transmit power across 1915–1920 MHz to 13 dBm, as opposed to the typical [3rd Generation Partnership Protect] 3GPP power level of 23 dBm, then the base station radiated power should accordingly be reduced by 10 dB to 164 Watts, as opposed to the Commission's proposal of 1640 watts.'' Because, as explained below, we do not reduce the permissible power levels for mobile devices in the Lower H Block below the 23 dBm level discussed by DISH, we dismiss as moot DISH's argument to apply symmetrical power restrictions both to the lower and upper bands.

56. In sum, we adopt a power limit of 1640 watts EIRP for emissions with less than 1 MHz channel bandwidth and 1640 watts/MHz for emissions greater than 1 MHz in non-rural areas and of 3280 watts EIRP for emissions with less than a 1 MHz channel bandwidth and 3280 watts/MHz EIRP for emissions greater than 1 MHz in rural areas as sufficient to protect PCS licensees in the 1930–1995 MHz band from harmful interference and to adequately protect AWS uplink operations, while enabling H Block licensees to operate full power base stations. Further, we allow operations in excess of the EIRP of 1640 watts and 1640 watts/MHz limits after coordination with adjacent PCS G Block licensees within 120 km, as is allowed for similar operations in the AWS and PCS services.

b. Upper H Block Out-of-Band Emissions Limits

57. To minimize or eliminate harmful interference between adjacent spectrum blocks, the Commission's rules generally limit the amount of radio frequency (''RF'') power that may be emitted outside of, or in a range of frequencies outside of, the assigned block of an RF transmission. In both the PCS and AWS–1 bands, for example, the Commission established an OOBE limit that requires emissions outside a licensee's assigned spectrum block be attenuated by a level of at least 43 + 10 $\log_{10}$ (P) dB, where P is the transmit power in watts.

58. To protect operations in adjacent and nearby bands above and below the Upper H Block, the Commission proposed, and sought comment on (including on the associated costs and benefits), a general OOBE limit for H Block base stations of 43 + 10 $\log_{10}$ (P) dB, where P is the transmit power in watts, outside of the 1995–2000 MHz band. This is consistent with the OOBE limits of the adjacent PCS operations within the 1930–1995 MHz band. In addition to this general limit, the Commission proposed that H Block operations meet a more stringent OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, between 2005 MHz and 2020 MHz to provide interference mitigation to AWS–4 terrestrial uplink operations. As the Commission observed, this additional proposed interference protection is meant to ensure that all of the Upper H Block spectrum can be used for downlink operations, while affording additional protections to most of the AWS–4 uplink band. Commenters generally supported the proposed OOBE limits into the 1930–1995 MHz PCS band, but several commenters proposed alternative OOBE limits for emissions above 2000 MHz. Although a few commenters made general assertions regarding the costs of adopting certain OOBE limits, no party submitted any cost or benefit data.

59. For the reasons discussed below, except as otherwise specified, we adopt the proposed OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Upper H Block base station transmissions outside of 1995–2000 MHz, including into the 1930–1995 MHz and 2000–2005 MHz bands. We also establish an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for transmissions from the Upper H Block into the 2005–2020 MHz AWS–4 band. We find that this approach both protects the 1930–1995 MHz band and the 2005–2020 MHz portion of the AWS–4 band from harmful interference, and provides adequate protection to the adjacent, lowest five megahertz of the AWS–4 band at 2000–2005 MHz. Thus, these OOBE limits allow us to meet the requirements set forth in the Spectrum Act with regard to the PCS downlink band, and to best manage the use of these spectrum bands in the public interest, consistent with the balancing we established in the AWS–4 proceeding. Further, as detailed below, our evaluation of the record and our consideration of how best to serve the public interest demonstrate that the various alternative proposals for OOBE limits put forth by commenters do not sufficiently balance the use of the H Block and use of the neighboring spectrum bands.

60. *General OOBE Limit.* We adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Upper H Block transmissions outside of the 1995–2000 MHz band, except as described below. We anticipate that H Block systems will be similar in design to PCS and AWS–1, which have effectively relied on the 43 + 10 $\log_{10}$ (P) dB OOBE limit in the Commission's rules to prevent harmful interference to operations in adjacent and nearby bands. The record also contains support for this OOBE limit. We therefore adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for transmitters operating in the Upper H Block, except as detailed below.

61. *Emissions into PCS.* We adopt and apply the general OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Upper H Block transmissions into 1930–1995 MHz. The record demonstrates support for our decision as commenters support the proposed 43 + 10 $\log_{10}$ (P) dB for base station transmissions from the 1995–2000 MHz band into the PCS bands located in 1930–1995 MHz. For example, U.S. Cellular and Sprint support an OOBE limit of 43 + 10 $\log_{10}$ (P) dB as the emissions restriction imposed on operations in the 1995–2000 MHz band. With respect to emissions into PCS, no party has opposed this limit. Moreover, inasmuch as the Upper H Block can be viewed from a technical perspective as an extension of the 1930–1995 MHz PCS band because they are both adjacent downlink bands, the 43 + 10 $\log_{10}$ (P) dB OOBE limit that applies between adjacent PCS downlink blocks logically should also apply to Upper H Block emissions into the 1930–1995 MHz PCS bands. Thus, to protect PCS operations in the 1930–1995 MHz band from harmful interference, we adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB for Upper H Block base transmissions.

62. *Emissions into AWS–4.* We adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Upper H Block transmissions into 2000–2005 MHz and an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Upper H Block transmissions into 2005–2020 MHz. We find these limits appropriately balance the difficult technical challenges associated with the Upper H Block (*i.e.,* downlink) being adjacent to the 2000–2020 MHz AWS–4 band (*i.e.,* uplink), which the Commission

addressed in the *AWS–4 Report and Order.* As the Commission previously observed, uplink spectrum bands that are adjacent to downlink spectrum bands raise difficult interference issues that require balancing the needs of both bands. In striking this balance, the Commission must determine what technical limits are appropriate, because the rules for one band affect the use and value of other bands, and the Commission seeks to maximize the efficient use of all bands. In the AWS–4 proceeding, for example, the Commission weighed the potential interference issues between the 2000–2020 MHz AWS–4 band and the 1995–2000 MHz H Block band. The Commission's assessment concluded that, to protect the utility of the Upper H Block, (1) AWS–4 uplink operations must meet a relatively strict OOBE limit of 70 + 10 $\log_{10}$ (P) dB into the 1995–2000 MHz band and into the 1930–1995 MHz PCS band, and (2) AWS–4 and 2 GHz MSS licensees would be required to accept harmful interference from lawful operations in the 1995–2000 MHz band if such interference is due to OOBE into the 2000–2005 MHz band or due to receiver overload into the 2000–2020 MHz band. In now establishing the technical rules for the Upper H Block, it is appropriate to likewise recognize the impact operations in this band may have on licensees above 2000 MHz.

63. In assessing the needs of both Upper H Block and AWS–4 uplink band, we start from an understanding of the current interference environment. Under the Commission's rules, emissions from the PCS downlink band at 1930–1995 MHz, including the G Block (1990–1995 MHz), into the AWS–4 uplink band at 2000–2020 MHz are limited to 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts. Our rules, however, are not the only factors affecting the operation and performance of AWS–4 systems. Both Sprint and DISH cite the 3GPP standards to support their differing cases for the OOBE limit into the AWS–4 band. These standards allow for an OOBE limit of −30 dBm/MHz (equivalent to attenuation of 60 + 10 $\log_{10}$ (P) dB) into the 2000–2010 MHz band, dropping to −49 dBm/MHz (equivalent to 79 + 10 $\log_{10}$ (P) dB) in the 2010–2020 MHz band. Additionally, the 3GPP standard noted that OOBE limits would only apply 5 MHz or farther from the edge of the PCS base station's operating band. This allows 5 megahertz within which the transmitter's output can roll off to meet the tighter limits.

64. Sprint (which holds all of the licenses for the PCS G Block, as well as some licenses for other PCS blocks) advocated for a limit of 60 + 10 $\log_{10}$ (P) dB across the 2005–2020 MHz band and DISH (which holds all of the AWS–4 licenses) advocated for a more stringent 79 + 10 $\log_{10}$ (P) dB limit across the 2005–2020 MHz band. In other words, relatively speaking, DISH would prefer that we impose greater restrictions on the transmissions from the Upper H Block into the AWS–4 band, while Sprint would prefer lesser restrictions on those Upper H Block transmissions. Both Sprint and DISH cite 3GPP standards in arguing for their preferred OOBE limits. Historically, while the Commission may take into consideration the determinations of third party technical standards organizations, such as 3GPP, the Commission also considers other factors not relevant to standards organizations. For instance, the Commission necessarily takes into account its enabling, and any other relevant, statute, which would not be binding on a third party standards organization. We are required, for example, to manage spectrum in the public interest, and to ''generally encourage the larger and more effective use of radio in the public interest.'' Private standards bodies may have other bases for their determinations, which may reflect compromises among the participants that are not subject to the statutory mandates that must inform our actions. Accordingly, while the Commission may independently incorporate industry standards based on the particular record before it, it does not typically adopt such interference standards as Commission rules. We again decline to do so here. Further, inasmuch as the OOBE limit we establish herein represents a ceiling, not a floor, industry remains free to set a more restrictive value through technical standards bodies, such as 3GPP.

65. In maximizing the usefulness of both bands, we seek to set appropriate limits on OOBE such that the overall interference imposed on AWS–4 uplink operations is no more than currently exists, to the greatest extent possible, without imposing a harsh and undue burden on Upper H Block downlink operations. We therefore adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for all Upper H Block emissions above 2000 MHz, including the 2000–2005 MHz portion of the AWS–4 band, except for transmissions into 2005–2020 MHz. As discussed above, this emission limit (10 $\log_{10}$) is the same level of protection that the Commission's rules currently provide AWS–4 operations from transmissions from existing PCS downlink operations in the 1930–1995 MHz band. For Upper H Block transmissions into 2005–2020 MHz, we adopt a more stringent OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts. This layered approach, encompassing one set of interference standards for emissions into the first five megahertz and a more stringent limit on emissions into the remaining fifteen megahertz, provides some flexibility for the H Block operator to design the emission characteristics of its system to meet the tougher OOBE limits into the 2005–2020 MHz band. This approach, moreover, was contemplated by the Commission in the *AWS–4 Report and Order* where the Commission, in requiring AWS–4 licensees to accept certain interference in the AWS–4 uplink band, stated that ''base station transmit filters need 1 to 5 megahertz to roll off to a low level of emissions.'' In addition, under the 3GPP standards, out-of-band emissions from PCS LTE operations must satisfy an OOBE limit of 60 + 10 $\log_{10}$ (P) dB at 2000–2010 MHz and then transition sharply to satisfy a much stricter limit of 79 + 10 $\log_{10}$ (P) dB at 2010–2020 MHz. As a practical matter, however, out-of-band emissions tend to roll off smoothly and do not mimic the step functions of the limits set by standards bodies, such as 3GPP. As a result, the emissions from LTE operations in the PCS band will naturally decrease smoothly from the 60 + 10 $\log_{10}$ (P) dB level at 2000 MHz to the 79 + 10 $\log_{10}$ (P) dB from 2010–2020 MHz. The limit we set at 2005 MHz—70 + 10 $\log_{10}$ (P) dB—approximates the emissions level that we expect would arise at 2005 MHz as emissions roll off between 2000 MHz and 2010 MHz. Therefore, we expect that the overall harmful interference risk on the AWS–4 A Block operator from future H Block operators would be no more than exists today from existing PCS operators. That is, just as PCS operations are not expected to cause harmful OOBE interference at 2005–2020 MHz, nor are H Block operations expected to cause OOBE interference at the limit we set here.

66. In response to the Commission's proposed OOBE limits into the AWS–4 uplink band, parties commented that the proposed limits were both too lenient and too strict. DISH argued that 43 + 10 $\log_{10}$ (P) dB is insufficient to protect AWS–4 and 2 GHz MSS operations in 2000–2005 MHz and that 70 + 10 $\log_{10}$ (P) dB is insufficient protection for operations in 2005–2010 MHz. Rather, DISH suggested a three-fold approach to protect AWS–4/2 GHz

MSS operations. DISH proposed an OOBE limit of 55 + 10 $\log_{10}$ (P) dB for emissions in the 2000–2005 MHz band, an OOBE limit of 79 + 10 $\log_{10}$ (P) dB for emissions above 2005 MHz, and an OOBE limit of 116 + 10 $\log_{10}$ (P) dB for co-located sites. Conversely, Sprint opposed the *H Block NPRM's* proposal of 70 + 10 $\log_{10}$ (P) dB above 2005 MHz as imposing too stringent a restriction on Upper H Block transmissions and recommended an OOBE limit of 60 + 10 $\log_{10}$ (P) dB into and above 2005.

67. We reject both proposals as improperly balanced, with the DISH proposal overly burdensome for a full powered, flexible use H Block and the Sprint proposal too burdensome on AWS–4 operations and unnecessary to allow the Upper H Block licensees full, flexible use of that spectrum.

68. First, we reject DISH's proposal that Upper H Block operations be restricted to an OOBE limit of 55 + 10 $\log_{10}$ (P) dB between 2000 and 2005 MHz. As discussed above, we establish an OOBE limit of 43 + 10 $\log_{10}$ (P) dB between 2000 and 2005 MHz and believe this represents an appropriate balance between ensuring the utility of the Upper H Block and the AWS–4 uplink band. A level of 55, rather than 43, plus 10 $\log_{10}$ (P) dB would be 32 times more stringent and would thus restrain the full use of the H Block. DISH argues that this OOBE level is necessary because aggregate power from all H Block base stations in the direction of the satellite would inadequately protect the satellite. We agree with Sprint and U.S. Cellular that DISH's argument is an inappropriate collateral attack on the *AWS–4 Report and Order* and our related order modifying the licenses of DISH's subsidiaries, which they have accepted. The Commission explicitly addressed the issue of how to balance Upper H Block interference into the 2000–2005 MHz band, for both terrestrial and MSS operations, in the *AWS–4 Report and Order.* There the Commission stated:

> to the extent that future operations in the 1995–2000 MHz band, operating within the rules established for use of the 1995–2000 MHz band, cause harmful interference to AWS–4 operations or MSS operations due to . . . OOBE in the 2000–2005 MHz portion of the AWS–4 and 2 GHz MSS uplink band . . . AWS–4 and 2 GHz MSS licenses must accept this interference.

We therefore reject DISH's proposed OOBE limit of 55 + 10 $\log_{10}$ (P) dB between 2000 and 2005 MHz because it conflicts with the full potential use of the H Block and would be inconsistent with the *AWS–4 Report and Order.*

69. Second, we reject DISH's proposal for an OOBE limit of 79 + 10 $\log_{10}$ (P) dB at and above 2005 MHz. DISH argued this limit is needed to protect AWS–4 terrestrial operations in 2005–2020 MHz. We disagree. We find that some of the assumptions underlying DISH's analysis are overly conservative, such as the use of a one kilometer spacing between base stations in both the interfering system and the victim system in determining the minimum coupling loss (MCL). As a result, we find an OOBE limit of 79 + 10 $\log_{10}$ (P) dB at 2005 MHz to be too restrictive on Upper H Block operations. While DISH has asserted that meeting an OOBE limit more stringent than 43 + 10 $\log_{10}$ (P) dB would not be difficult for the H Block operator to meet, the evidence it cites does not support the conclusion that an H Block operator could meet an OOBE limit of 79 + 10 $\log_{10}$ (P) dB at 2005 MHz. In the three test reports cited by DISH, each LTE base station is shown to exceed the Commission's limit of 43 + 10 $\log_{10}$ (P) dB by 10 dB or more. For instance, the Samsung test report shows that the base station may be able to meet 60 + 10 $\log_{10}$ (P) dB within the AWS–4 band. However, none of the test results show whether the base stations would be able to meet DISH's proposed limit of 79 + 10 $\log_{10}$ (P) dB. In addition, we find that an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, as opposed to a limit of 79 + 10 $\log_{10}$ (P) dB, is more consistent with the balancing of interference concerns between the AWS–4 and H Block bands discussed in the *AWS–4 Report and Order,* particularly in light of the Commission's determination in that order to require AWS–4 operations to protect future Upper H block operations using an OOBE limit of 70 + 10 $\log_{10}$ (P) dB. Thus, to avoid harmful OOBE interference to AWS–4 operations at 2005–2020 MHz, we find an OOBE limit of 70 + 10 $\log_{10}$ (P) dB into 2005–2020 MHz is necessary.

70. DISH further argued that an OOBE limit of 79 + 10 $\log_{10}$ (P) dB at 2005 MHz is consistent with 3GPP specifications. As an initial matter, as we stated above, while the Commission may take into consideration the determinations of third party technical standards organizations such as 3GPP, the Commission also considers other factors not relevant to standards organizations. Moreover, we observe that, while the DISH proposed OOBE limit is contained in the 3GPP specification for LTE base stations, the limit is for bands other than Bands 23, 2, and 25. Bands 23, 2, and 25 represent the AWS–4 operations, PCS operations in the 1930–1990 MHz band, and PCS + G Block operations in the 1930–1995 MHz band, respectively. Thus, the 3GPP specification, on its own terms, does not apply to the interference scenario at issue here. There is a separate set of OOBE limits that apply to these nearby bands. Notably, the relevant 3GPP specification for Band 25 only requires 60 + 10 $\log_{10}$ (P) dB between 2000 and 2010 MHz due to its proximity to the AWS–4 band. 3GPP does not require PCS operations to meet the more stringent 79 + 10 $\log_{10}$ (P) dB limit until at least 15 MHz above the PCS band (*i.e.,* above 2010 MHz). Thus, DISH's suggestion that 3GPP standards provide an example of more stringent OOBE limits is misplaced. We also observe that, as Sprint asserted, current Commission rules allow for much lower attenuation for existing PCS systems, including the G Block, over the entire AWS–4 band.

71. Third, we reject DISH's proposed OOBE limit for co-located sites. Specifically, DISH sought an OOBE limit of at least 116 + 10 $\log_{10}$ (P) dB for sites containing both an AWS–4 base station and an H Block base station. DISH argued, ''when two base stations are co-located, significantly less path loss is encountered, and a much higher interference level may be present at the victim receiver,'' which requires more stringent filters. DISH cited a 3GPP LTE standard recommendation for co-location that stated a limit of −96 dBm/100 kHz may be applied for the protection of other base station receivers. Co-location with other communication systems is a common industry practice to resolve coexistence issues. Yet the Commission typically does not impose separate OOBE requirements on co-located sites in other systems operating under either part 24 or part 27. Instead, these interference concerns are routinely negotiated between the affected parties, taking advantage of the flexibility afforded by our rules for affected parties to resolve interference issues at spectral and geographic boundaries. Because co-location is a network design decision, network operators possess incentives to deploy in an efficient and productive manner that minimizes potential harmful interference. In some cases, interference scenarios can be improved through the use of co-location. Additionally, our rules contain a savings provision. In the case that harmful interference results from OOBE, the Commission may, at its discretion, require greater attenuation than the specified limits. Furthermore, while not dispositive of our regulatory determination, the 3GPP standards DISH references specifically exempt base station transmitters operating within 10 megahertz of the affected

receiver's operating band, which is the case here. Indeed, the standard itself states that ''the current state-of-the-art technology does not allow a single generic solution for co-location with other systems'' and points to site engineering solutions. In sum, we find that to impose a limit of 116 + 10 $\log_{10}$ (P) on the Upper H Block would be unduly burdensome on the licensee and that setting any OOBE for the specific case of co-location would be inconsistent with general Commission practice. Therefore, we decline to establish a rule pertaining to co-location interference issues.

72. We also reject Sprint's proposal to adopt a 60 + 10 $\log_{10}$ (P) dB attenuation requirement from 2005–2020 MHz. Sprint argued an OOBE limit of 70 + 10 $\log_{10}$ (P) dB would significantly increase the cost of deployment in the Upper H Block, but made no attempt to quantify this cost or provide any cost data. According to Sprint, such increases in costs both could stifle interest in an auction of the H Block and would not provide any substantive improvement in interference. This argument is inconsistent with Sprint's agreement in the 3GPP standards process to protect operations in the 2010–2020 MHz band at a level of 79 + 10 $\log_{10}$ (P) dB. In addition, DISH asserted that an OOBE limit of 60 + 10 $\log_{10}$ (P) dB is insufficient to protect AWS–4 operations. We agree with DISH. In this instance, a stricter OOBE limit is warranted because the Upper H Block (downlink) is adjacent to the AWS–4/2 GHz MSS uplink band, which raises real interference concerns. An OOBE limit of 70 + 10 $\log_{10}$ (P) dB, as opposed to a limit of 60 + 10 $\log_{10}$ (P) dB, is more consistent with the balancing of interference concerns between the AWS–4 and H Block bands discussed in the *AWS–4 Report and Order,* particularly in light of the Commission's determination in that order to require AWS–4 operations to protect future Upper H block operations using an OOBE limit of 70 + 10 $\log_{10}$ (P) dB. Thus, to avoid harmful OOBE interference to AWS–4 operations at 2005–2020 MHz, we find an OOBE limit of 70 + 10 $\log_{10}$ (P) dB into 2005–2020 MHz is necessary.

73. *Measurement Procedure.* Finally, to fully define an emissions limit, the Commission's rules generally specify details of the measurement procedure to determine the power of the emissions, such as the measurement bandwidth. For AWS–1, for example, the measurement bandwidth used to determine compliance with this limit for both mobile stations and base stations is generally 1 megahertz, with some modification within the first 1 MHz. The Commission also applied the same OOBE measurement procedure to AWS–4 and to PCS operations. To treat the Upper H Block in an equivalent manner to these similar bands, we therefore adopt the same requirement that compliance with the emissions limits established herein will be determined by using a 1 MHz measurement bandwidth.

c. Co-Channel Interference Between Licensees Operating in Adjacent Regions

74. As discussed above, we determine to license the H Block on an EA geographic license area basis. The Commission observed in the *H Block NPRM* that should the H Block be licensed on a less than nationwide basis, it would be necessary to ensure that licensees do not cause harmful interference to co-channel systems operating along their common geographic boundaries. To resolve any such interference, the Commission proposed adopting a boundary limit approach, with a specific boundary field strength limit of 47 dBμV/m. The Commission also sought comment on whether licensees operating in adjoining areas should be permitted to employ alternative, agreed-upon signal limits at their common borders. With one exception, commenters did not oppose the Commission's proposals to protect adjacent licensees from co-channel interference. Sprint, however, argued that the field strength limit be adjusted to accommodate for varying channel bandwidths.

75. We adopt the proposed boundary limit approach for co-channel interference. As discussed above, the Commission will license the H Block on a geographic area basis that is less than nationwide, *i.e.,* an EA basis. To prevent licensees that operate systems along common geographic borders from causing harmful interference to one another, the Commission must provide operating limits to ensure such licensees do not cause interference to co-channel systems. Adopting a boundary limit approach establishes a default standard, which will enable licensees to deploy facilities in boundary areas without the need for prior coordination. Licensees may use this operating limit as a starting point for negotiations to exceed the limits with agreement of adjacent area licensees. Moreover, in other bands where spectrum has been allocated for fixed and mobile services, similar to the H Block, the Commission has uniformly adopted the boundary limit method to minimize harmful co-channel interference. For instance, the PCS, AWS–1, and AWS–4 bands all use a boundary limit approach. In response to the Commission's proposal, commenters favored the boundary limit approach over a coordination requirement. For example, Sprint comments that ''applying a boundary limit consistent with prior proceedings can enable future H Block licensees to deploy facilities in boundary areas without the delays associated with significant pre-coordination efforts while protecting adjacent licensees from co-channel interference at their borders.'' Additionally, no commenter proposed a coordination approach for limiting co-channel systems from interfering with one another. Consequently, we find that a boundary limit approach is the best method to address potential harmful co-channel interference between licensees operating in adjacent geographic regions.

76. We set the field strength limit at the boundary at 47 dBμV/m. As the Commission observed in the *H Block NPRM,* in other bands where spectrum has been allocated for fixed and mobile services and licensed for flexible use, similar to the H Block, the Commission has generally adopted a boundary field strength limit of 47 dBμV/m. For example, in the PCS, AWS–1, and AWS–4 bands, the Commission adopted a field strength limit of 47 dBμV/m at the boundary of licensed geographic areas. Because this limit has worked well in limiting co-channel interference in other bands, we find it appropriate to adopt it here for the similarly situated Upper H Block.

77. In adopting this boundary limit, we decline to adopt the alternative limit proposed by Sprint in its Reply. While supporting the boundary limit approach used in other bands, Sprint asserted that we should modify the boundary limit to set a reference measurement bandwidth. In making this recommendation, Sprint claimed that because today's LTE transmissions operate on wider channels than earlier technologies such as CDMA or Digital AMPS, a 47 dBμV/m limit will effectively result in a comparatively lower field strength limit. Specifically, Sprint proposed to adjust the field strength limit from 47 dBμV/m to 62 dBμV/m per MHz. Sprint argued that the power spectral density for a 30 kHz Digital AMPS carrier at a 47 dBμV/m field strength is equivalent to a 62 dBμV/m LTE carrier with a 1 MHz bandwidth, adjusting the field strength limit by the ratio of the bandwidths (10*$\log_{10}$(1 MHz/30 kHz) = 15 dB). Sprint stated that its proposed boundary limit would better enable 4G–LTE buildout of the H Block while also providing the appropriate interference

protections. Sprint further suggested that the boundary limits with Canada and Mexico should similarly be based on power density levels.

78. Although we agree with Sprint on a conceptual level that a boundary limit that adjusts for large differences in channel bandwidths may be appropriate, we are not persuaded that Sprint's proposed limit represents the optimal solution. Sprint derived the value for the field strength based on a comparison against a 30 kHz Digital Amps signal. Other technologies may be a more appropriate reference upon which to base the value for the field strength. Also, there are other metrics that may be used to limit the signal at the boundary, such as power flux density. We observe that the Commission has already adopted a bandwidth-independent approach when setting boundary limits with Canada and Mexico. For example, certain international limits are expressed as a power flux density (*i.e.,* dBW/m²/MHz), a measure of power, whereas field strength is a measurement of voltage. As Sprint noted, other parties have proposed to set boundary limits in a bandwidth neutral manner, but there is no established consensus on what the value of the limit should be. With no consensus regarding an alternative boundary limit approach, and not having received record input from any other party on Sprint's proposal, we are not prepared to adopt it at this time. We intend to explore the issue of whether to apply a measurement bandwidth to co-channel boundary limits in future service rules proceedings and we encourage all interested parties to explore this issue in such proceedings to develop a full record of the technical concerns and ramifications of such an approach.

79. Finally, we adopt the Commission's proposal that adjacent affected area licensees may voluntarily agree upon higher field strength boundary levels that the 47 dBμV/m we adopt above. This concept is already codified in the field strength rules for both PCS and AWS services, as Sprint acknowledged. No party opposed extending this approach to the H Block. Accordingly, to maintain consistency with the PCS and AWS bands, we permit adjacent area licensees to agree to a higher field strength limit.

2. Lower H Block: 1915–1920 MHz

80. The Lower H Block is immediately above the 1850–1915 MHz PCS band, which is used for mobile transmit/base receive (*i.e.,* uplink) purposes. As the Commission observed, use of the Lower H Block as proposed in the *H Block NPRM* is compatible with this adjacent PCS band. Accordingly, the Commission stated that technical standards more restrictive than those already established for AWS and PCS stations to protect PCS operations below 1915 MHz likely would not be necessary.

81. The Lower H Block is also situated immediately below the 1920–1930 MHz band, which is allocated for Unlicensed PCS purposes (UPCS) and the 1930–1995 MHz PCS base transmit/mobile receive (*i.e.,* downlink) band. As explained below, UPCS operations are not entitled to interference protection from appropriately licensed operators in the Lower H Block. The 1930–1995 MHz band, however, presents technical challenges for use of the Lower H Block. As detailed below, when certain worst-case conditions are present, the potential exists for mobile transmitters in the 1915–1920 MHz band to cause harmful interference to mobile receivers in the 1930–1995 MHz band.

82. As discussed above, the Spectrum Act requires the Commission to conduct an auction of the H Block spectrum unless we determine that the H Block frequencies cannot be used without causing harmful interference to commercial mobile service licensees operating between 1930–1995 MHz (PCS downlink). Against this backdrop, commenters generally argued that the Commission should carefully examine the issue of mobile power limits for the Lower H Block and that, if possible, these limits should be based on technical studies. Four parties submitted technical reports into the record that address the possibility of Lower H Block operations causing harmful interference to PCS operations in the 1930–1995 MHz band. Sprint filed a test report accompanying its Reply filing. On April 18, 2013, Verizon Wireless submitted a technical study. On May 13, 2013, and May 14, 2013, T-Mobile and AT&T separately filed a joint test report.

83. *Sprint and Verizon Wireless Test Reports.* Both Sprint and Verizon Wireless contracted with V–COMM Telecommunications Engineering (V–COMM) to conduct tests on the effects of mobile operations in the Lower H Block on several of each operator's existing CDMA handsets. The handset's receiver performance was tested against interference due to overload (*i.e.,* blocking), intermodulation, and OOBE.

84. *AT&T and T-Mobile Study.* AT&T and T-Mobile contracted with 7Layers to perform tests on the effects of mobile operations in the Lower H block on several of each operator's existing GSM, UMTS and LTE handsets. The mobile receiver's performance was tested against interference due to overload, intermodulation and OOBE.

85. We discuss these test reports and the interference scenarios they examined more fully below. At the outset, however, we observe that AT&T, Sprint, T-Mobile, and Verizon Wireless all stated that, subject to appropriate power limits and OOBE limits, mobile operations in the Lower H Block can occur without causing harmful interference to PCS operations in the PCS band at 1930–1995 MHz. Based on our analysis of the record, which we explain in detail in the sections immediately below, we agree that appropriate technical rules will ensure that mobile or low power fixed operations in the Lower H Block do not cause harmful interference to PCS downlink operations.

a. Lower H Block Power Limits

86. We adopt transmitter power limits for the Lower H Block that will maximize the full flexible use of the spectrum while protecting adjacent operations from harmful interference due to receiver overload. As explained above, receiver overload may result when signals outside of the receiver's nominal bandwidth cause the receiver to experience an increased noise level or produce non-linear responses. Accordingly, we must examine the power limits necessary to avoid harmful interference to PCS downlink licensees under the Spectrum Act and, within this constraint, maximize full flexible use of the Lower H Block.

87. In the *H Block NPRM,* the Commission observed that parties commenting in earlier dockets had expressed concern regarding power limits for the Lower H Block. These comments argued for the establishment of power limits for operation in the Lower H Block that would adequately protect PCS operations in the 1930–1995 MHz band. As discussed above, since these earlier comments, the mobile broadband industry has undergone rapid evolution and new technologies have been developed and adopted. These advances prompted the Commission to seek comment on how newer filtering techniques and duplex designs have improved to adjust for potential harmful interference. Specifically, the Commission sought comment on an appropriate power limit for 1915–1920 MHz mobile devices in light of these advances.

88. The Commission also observed that the 1915–1920 MHz band is allocated for fixed services, but that the possibility of interference from fixed station antennas to PCS mobiles will likely be less than anticipated

interference from Lower H Block mobiles to PCS mobiles because fixed devices are generally located at a fixed height above the ground and thus are vertically separated from PCS mobile devices. Accordingly, the Commission sought comment on what the power level should be for fixed stations operating in the Lower H Block.

89. The record contains three technical studies that examined the potential for Lower H Block operations to cause harmful interference, including overload, intermodulation and interference from out-of-band emissions, to PCS downlink operations. All of these studies assumed that the Lower H Block device would be an LTE FDD mobile device. The Sprint Test Report and the Verizon Wireless Test Report both used existing CDMA devices for the PCS devices. The AT&T/T-Mobile Study used LTE, UMTS, and GSM PCS devices. The studies included testing of the receiver performance of existing PCS devices against overload interference, as well as intermodulation interference that would be caused, in part, by receiver overload. As stated above, receiver overload occurs when the power from a signal outside of the receiver's operating frequency range causes the receiver's performance to degrade. A strong radio frequency (RF) signal can cause the detector in the receiver to operate in a non-linear manner, thereby reducing its ability to decode the desired signal. Intermodulation interference may occur when two RF frequencies pass through a non-linear element in the receive path of the receiver. Two signals at different frequencies passing through a non-linearity will mix and create new frequencies that are related to the sum and the difference of the original signals. These are termed intermodulation products. Although the non-linearity may be caused by hardware flaws, the most common cause of intermodulation interference—and the historical concern for the bands at issue—is from non-linearity that results from receiver overload. Notably, in earlier tests, third order intermodulation products were found to occur within the PCS mobile receiver's B Block frequency range (1950–1965 MHz) due to the mixing the of the PCS mobile device's transmitter frequency (1870–1885 MHz) with the Lower H Block mobile device's transmitter frequency (1915–1920 MHz). Below, we describe the three tests, first presenting the test set-up for all of the tests, followed by the results for all of the tests.

90. *Sprint and Verizon Wireless Test Reports—Test Setup.* In performing tests for Sprint and for Verizon Wireless, V–COMM tested the performance of a number of each operator's existing CDMA devices against overload and intermodulation interference using the same test procedure. Although both types of interference may be caused by strong power levels, the effects of the interference are seen at different receiver frequencies. The greatest potential for overload occurs where the edge of the receiver's passband is closest to the transmitter's operating frequency range. Therefore, tests for overload were conducted with the receiver tuned to the lowest channel in the PCS A Block, closest to the Lower H Block. The tests for intermodulation were conducted at three different receiver operating frequencies within the PCS B Block downlink band.

91. In the testing, V–COMM subjected each of the PCS CDMA receivers to several different interfering signals, each with different center frequencies, channel bandwidths and types of modulation. The set of interfering signals were 5 MHz, 3 MHz or 1.4 MHz bandwidth LTE carriers, centered at 1917.5 MHz, 1916.5 MHz and 1919 MHz, respectively. The types of modulation used represented several worst case conditions, such as maximizing power at the control channels located near the edges of the band, a fully loaded device with all resource blocks allocated, or all power concentrated in a single resource block located on a frequency where it would be most likely to create intermodulation products.

92. In total, twelve different types of interfering signals were tested for each device. First, the receiver sensitivity of each device was measured to determine the minimum received power level at which the device would perform properly in the absence of noise. Successful operation was defined as a 0.5% Frame Error Rate (FER). The level of the desired signal was set at either 1 dB or 3 dB above the measured sensitivity level. Then an interfering signal was introduced and its power level increased until the same 0.5% Frame Error Rate was achieved, marking the 1 dB or 3 dB receiver desensitization level. The 1 dB or 3 dB desensitization level is the power of the interfering signal at which the receiver's sensitivity is degraded by 1 dB or 3 dB, respectively. For each test case, both the 1 dB receiver desensitization and 3 dB receiver desensitization levels were recorded.

93. V–COMM then related the interference levels measured in each test case to their effect on the user's experience in two scenarios. In so doing, V–COMM determined the power level of the out-of-band emissions at the output of the H Block transmitter necessary to generate the measured interference levels at the PCS receiver's antenna terminals. The difference between these two signal levels is determined primarily by the distance between the transmitting and receiving devices and by the manner in which the user is handling the device, which affects the amount of head and/or body losses in the transmission path. The two user scenarios were: (1) Both the transmitting and receiving mobile devices were assumed to be held in the user's hand, as would be likely for data use; and (2) both the transmitting and receiving mobile devices were assumed to be held to the user's head, as would be likely for a voice call. The analysis then set forth assumptions of 3 dB for body loss, 8 dB for head loss, a 0 dBi receive antenna gain for both mobile devices, a separation of 1 meter, and free space path loss to the two user scenarios. Application of these assumptions determined the effective interfering signal level at the receiver input of -21 dBm and of -31 dBm, respectively, for the data and voice user scenarios. The device was deemed to operate normally if the power level of the interfering signal that caused receiver desensitization exceeded these values.

94. *AT&T/T-Mobile Test Report—Test Setup.* AT&T and T-Mobile developed a joint test plan to test the performance of several of each operator's GSM, UMTS and LTE devices against interference due to receiver overload, intermodulation and out-of-band emissions from an H Block mobile transmitter. The tests were performed by 7Layers, a third party. Because much of the 7Layers testing took place after the filing of the Sprint Test Report, AT&T and T-Mobile included several test cases that subjected their devices to similar conditions to those used by Sprint. The test report, submitted jointly by AT&T and T-Mobile, did not provide details of the test setup used. However it did identify several differences between the 7Layers tests and those performed by V–COMM for Sprint and Verizon Wireless. The most significant difference between the test plans is how the desired signal level was set. The 7Layers tests initially set the level of the desired signal at 3 dB above the reference sensitivity level set by the 3GPP standard for the technology under test. To provide a more direct comparison to the Sprint and Verizon Wireless test reports, however, 7Layers then performed its tests using the sensitivity measured for each device individually, both at 1 dB

above measured sensitivity and again at 3 dB above measured sensitivity. Despite characterizing the set of test conditions using a 1 dB desensitization level as representing worst case scenarios, the AT&T Test Report used this assumption in reaching its conclusions. The AT&T/T-Mobile Test Report did so, while at the same time it raised particular concern about the usefulness of testing to 1 dB of desensitization above each device's measured sensitivity, stating that ''it is not typically used during conformance or performance testing, primarily because the measurement uncertainty associated with it is rather high. The measurement metric (throughput or BER/FER) displays highly non-linear behavior.''

95. The AT&T/T-Mobile Test Report is different from the Sprint and Verizon Wireless test reports in other ways, as well. Notably, 7Layers subjected each PCS receiver to two different interfering signals to simulate an H Block mobile device. Both signals represented 5 megahertz LTE carriers operating at a center frequency of 1917.5 MHz, but used different resource block allocations. One signal spread the mobile's power over all 25 resource blocks representing a fully loaded mobile, while the other concentrated the mobile's power in 5 resource blocks, but did not define which five blocks were assigned. By comparison, the Sprint and Verizon Wireless test reports used a total of twelve different LTE signals. Another significant difference in the test plans is that the AT&T/T-Mobile Test Report included for the UMTS PCS devices two desired signal conditions, reflecting both lightly loaded and heavily loaded cell conditions for these devices, whereas the Sprint and Verizon Wireless test reports used one signal condition. The AT&T/T-Mobile used two conditions to simulate ''cell breathing'' on a CDMA network. In the heavily loaded scenario, the power allocated to each user in the downlink spectrum was reduced and the effective cell coverage was reduced.

96. AT&T and T-Mobile reported results for two GSM devices, up to three UMTS devices (depending on the test scenario), and one LTE device. These results note the power of the interfering signal that would create the specified degradation of the receiver. AT&T and T-Mobile also interpreted the results differently than Sprint and Verizon Wireless, using slightly different assumptions for the user scenario. AT&T and T-Mobile used 25 dBm EIRP as the actual operating power of the H Block mobile, rather than using the nominal 23 dBm EIRP assumed by Verizon Wireless and Sprint. The AT&T/T-Mobile Test Report also did not include any body loss for either the transmitting or receiving mobile. The report therefore used an interfering signal level of −13 dBm as a pass/fail criterion. For point of comparison, Sprint and Verizon Wireless set a −21 dBm criterion for the level of allowed interference for the data user scenario. The AT&T/T-Mobile Test Report also observed that the receive antenna gain used by Sprint and Verizon Wireless was likely optimistic, stating that most mobile receivers have a −1.5 to −3 dBm antenna gain. However, the AT&T/T-Mobile Test Report still adopted the 0 dBi value as it is typically used in link budget calculations.

97. *Sprint Interference Tests—Results.* In the Sprint Test Report, in the tests for receiver overload from Lower H Block in the PCS A Block, all six Sprint devices tested met the 3 dB desensitization level at a separation of 1 meter for all 24 test cases (12 interfering signals, 2 user scenarios). Four of the six devices met the 1 dB desensitization level at a separation of 1 meter, with the exception of one device for three test cases (out of the twenty-four total cases tested for that device). That device in that single case experienced blocking at 2 dB below the target level of −21 dBm for data use, which is equivalent to a separation of 1.3 meters. The other two Sprint devices experienced a 1 dB desensitization of their receivers at distances significantly greater than 1 meter in a majority of cases. V–COMM observed that the average interfering signal level that caused a 1 dB desensitization of the receiver was −22 dBm for a majority of devices, equivalent to a 1.1 meter separation.

98. In the Sprint Test Report, in tests for intermodulation and overload of the PCS B Block receiver, the results showed better performance than were observed for overload alone in the PCS A Block. Again, as with the overload tests, all devices met the 3 dB desensitization level for all test cases. Moreover, all devices experienced less than 1 dB of desensitization for the voice call in all instances. There were fewer failures in the data use scenario as well, with four of the six devices meeting the 1 dB desensitization level at less than 1 meter for data use. The other two devices experienced a 1 dB desensitization of their noise floor at distances of greater than 1 meter in half or more of the cases. These results for intermodulation were significantly better than were the results from testing in 2004.

99. After observing the difference in the results for the 1 dB and 3 dB desensitization levels, V–COMM conducted a test using the worst case interfering signal at a 2 dB desensitization level. At this level, all devices passed under the two user scenarios for both overload in the PCS A Block and overload plus intermodulation in the PCS B Block. In other words, no PCS device experienced a 2 dB or greater rise in the noise floor at a 1 meter separation from an H Block mobile device operating at 23 dBm, which is full power under the 3GPP LTE specification.

100. *Verizon Wireless Test Report—Results.* In the Verizon Wireless Test Report, in the tests for receiver overload from Lower H Block in the PCS A Block, all eight Verizon Wireless devices met the 3 dB desensitization level for all test cases. Four of Verizon Wireless's eight devices met the 1 dB desensitization level at a separation of 1 meter for both user scenarios. Of the other four devices, two experienced overload at the 1 dB desensitization level in approximately half of the test cases. V–COMM observed that the average interference levels for 1 dB desensitization for the six best devices was −21 dBm, which represents an H Block device transmitting at a 1 meter separation and at full power under the 3GPP LTE specification of 23 dBm EIRP.

101. In the tests for intermodulation and overload of the PCS B Block receiver, Verizon Wireless observed better performance than it observed for overload alone in the PCS A Block. As with the overload tests, all devices met the 3 dB desensitization level for all test cases. Six of the eight devices met the 1 dB desensitization level at 1 meter of separation for all of the voice call scenarios. There were ten instances out of a total of 144 (combination of six devices, two user scenarios and 12 interfering signals) in which the device experienced more than 1 dB of desensitization at a 1 meter separation. The two poorest performing devices experienced a 1 dB desensitization of the receiver at a distance of 1 meter in approximately half of the user scenarios. These results for intermodulation were significantly better than were the results from testing in 2004.

102. Just as it did for Sprint, V–COMM also conducted a set of tests using the worst case interfering signal at a 2 dB desensitization level. At this level, all devices passed for the two user scenarios for both overload in the PCS A Block and overload plus intermodulation in the PCS B Block. In other words, no device experienced more than a 2 dB rise of the noise floor at a 1 meter separation from an H Block mobile device operating at 23 dBm,

which is full power under the 3GPP LTE specification.

103. *AT&T and T-Mobile Test Report—Results.* The AT&T/T-Mobile Test Report stated that ''all three airlink technologies displayed reasonable immunity to blocking and/or overload from an emulated H Block device.'' In the AT&T/T-Mobile Test Report, under typical design conditions for light traffic, seven of the ten test cases met their stated criteria. The two GSM devices did not meet their interference criteria of −13 dBm, and ''display[ed] noticeable performance impairment when the H Block device transmits at a power level within 2dB from its nominal maximum output power.'' As explained above, AT&T and T-Mobile assessed the test results under different assumptions than did Sprint and Verizon Wireless. Based on examination of the test reports by Commission staff, under the data use scenario defined by Sprint and Verizon Wireless, all of AT&T and T-Mobile's devices would meet the criteria for receiver overload corresponding to 3 dB desensitization, for either worst case or typical design. Under 1 dB desensitization performance conditions, AT&T and T-Mobile's devices met their criteria in only one of six test cases.

104. In the tests for intermodulation, the AT&T/T-Mobile Test Report stated that ''[n]o B Block performance impairment was noted . . . until the device was exposed to very high H Block signal levels.'' Using AT&T and T-Mobile's assumptions, we observe their devices met their criteria in 15 of 18 test cases, over all desensitization levels, when lightly loaded. Based on Commission staff examination, all of the devices would have passed under Sprint and Verizon Wireless's user scenarios.

105. Looking separately at the results for the UMTS devices under high traffic conditions, the AT&T/T-Mobile Test report recorded more sensitivity to interference than under light traffic for the typical design case. Two of four receiver blocking test cases met their stated criteria, as did two of the four intermodulation test cases. We observe that all eight high traffic test cases would meet the criteria under the Sprint and Verizon Wireless data use scenario. Looking at a total of eight test cases for blocking (two devices, two interfering signal types, and two desensitization levels) and eight test cases for intermodulation, the UMTS devices were unable to meet the target BER under high traffic conditions before any interfering signal was applied in all but two of the sixteen cases. In other words, the devices were unable to perform acceptably in the complete absence of interference when the desire signal was set at only 1 dB or 3 dB above the device's sensitivity in high traffic.

106. *Power Limit Proposals Based on Interference Testing.* As a result of these studies, the four largest wireless providers all proposed the Commission adopt mobile and fixed power limits of 25 dBm EIRP, which is equivalent to a power limit of 300 milliwatts EIRP. First, in submitting its initial test results, Sprint concluded that ''intermodulation interference is no longer a significant threat to today's PCS devices.'' With regard to receiver overload, Sprint determined that the ''potential for receiver blocking in today's PCS devices has decreased significantly to a point where blocking interference is unlikely.'' Based on the evidence provided in the test data, Sprint proposed that a mobile power limit of 23 dB EIRP with a +/− 2 dB tolerance would protect adjacent PCS devices in the 1930–1995 MHz band. Second, Verizon Wireless recognized a similar improvement in the performance of its devices over time, stating that the newly tested devices ''showed less sensitivity to interference than they did in 2004.'' Specifically, the Verizon Wireless Test Report concluded that ''based on receiver blocking test results, an H-Block mobile power limit of +23 dBm EIRP will prevent interference to the majority of PCS CDMA devices tested at 1 meter device separation.'' Relying on the tests, Verizon Wireless stated that a power limit of 25 dBm EIRP ''is the minimum needed to protect existing PCS operations from substantial interference.'' Third, T-Mobile generally supported the 25 dBm EIRP proposed by Sprint and Verizon Wireless. T-Mobile was concerned, however, that H Block operations at a power level within 2 dB of the nominal maximum output power of 23 dBm could cause harmful interference for consumers with GSM devices and therefore requested that the Commission ''require future H Block licensees . . . provide notification to PCS A Block licensees when they turn on service in the H Block on a market-by-market basis.'' Fourth, AT&T stated that it ''supports an H Block power limit of +23 dBm (+/− 2 dB) as ''sufficient to ensure reasonable coexistence between LTE devices operating in the FCC's proposed H Block and UMTS and LTE devices operating in the PCS A and B Blocks.'' AT&T further stated that ''by the time LTE is widely deployed in the Lower H Block, GSM usage in the PCS Downlink Band on AT&T's network will be much less common than today, as AT&T deploys advanced technologies.''

107. Based on the record before us, we adopt a power limit for fixed and mobile devices operating in the Lower H Block of 300 milliwatts EIRP, which is equivalent to 25 dBm EIRP. As stated above and in the *H Block NPRM,* earlier testing conducted in 2005 identified the primary concern with full power mobile operations in the Lower H Block as intermodulation interference to PCS B Block receivers, with some additional concern regarding overload interference to PCS A Block receivers. The primary remedy to address receiver overload and intermodulation is through limits on mobile transmit power. At that time, parties argued for a severe reduction in the permissible mobile transmit power limit, such as imposing very strict power limits (*e.g.,* 6 dBm EIRP) on the 1917–1920 MHz portion of the band, to address this problem. As detailed above, all of the studies showed that technological improvements over the past several years have resulted in mobile devices in the PCS band that can tolerate or mitigate against greater interference levels before overload or intermodulation interference rises to the level of causing harmful interference. In particular, while the testing performed in earlier years showed intermodulation interference to be a significant concern (and a much greater concern than overload interference), the new testing does not identify intermodulation as causing harmful interference. For example, in describing the results for both the Sprint Test Report and the Verizon Wireless Test Report, V–COMM stated that ''CDMA devices tested generally showed less sensitivity (better rejection) to intermodulation interference as compared to [r]eceiver [b]locking—this is different from the 2004 devices tested.''

108. Consistent with the results of their studies, AT&T, Sprint, T-Mobile, and Verizon Wireless all proposed a power limit of 25 dBm EIRP, which is equivalent to 300 milliwatts EIRP, for operations in the entire Lower H Block. For example, Sprint ''recommend[ed] that the Commission adopt a uniform H Block mobile device power limit of +23 dBm EIRP, with a +/− 2 dB implementation margin of tolerance . . . to protect adjacent PCS operations above 1930 MHz.'' Verizon Wireless similarly stated that a power limit of 25 dBm EIRP is ''the minimum needed to protect existing PCS operations from substantial interference.'' AT&T and T-Mobile, in their joint test report, stated that a full power H Block mobile will not create significant impairment to UMTS or LTE devices, but that GSM devices ''display noticeable performance impairment when the H Block device transmits at a power level

within 2 dB from its nominal maximum output power or 23 dBm.'' In proposing a power limit of 25 dBm EIRP based on tests that showed significant instances of observed interference, the parties implicitly stated that the overall probability of interference was sufficiently low that it was deemed acceptable and did not rise to the level of harmful interference. No party opposed 25 dBm EIRP as a power limit across the Lower H Block or suggested that this power limit would lead to harmful interference to operations outside of the Lower H Block.

109. We adopt the proposed limit of 25 dBm EIRP, which is equivalent to 300 milliwatts EIRP, as the power limit for mobile and low power fixed operations in the entire Lower H Block and find, consistent with the Spectrum Act harmful interference condition, that operations subject to this power limit will not cause harmful interference to operations in the PCS downlink band. In adopting a power limit of 300 milliwatts EIRP, we observe that this limit is lower than the limits for other, comparable bands. For example, the power limit for mobile operations in the lower PCS Band (1850–1915 MHz) and in the AWS–4 Band is 2 watts EIRP, and in the AWS–1 Band is 1 watt EIRP. We nevertheless adopt the 300 milliwatts EIRP limit because it will protect against harmful interference to the PCS band, as required by statute, while enabling mobile devices deployed in the Lower H Block to operate at power levels sufficient to provide generally robust service quality, consistent with our goal of enabling efficient use of the band. Notably, in performing the testing and reaching the recommendations, the tests all were conducted assuming an LTE mobile device operating at the maximum power level indicated in the 3GPP LTE specifications—23 dBm. Consequently, adopting a power limit at 300 milliwatts (23 dBm, plus a 2 dBm tolerance) will enable the most likely H Block devices to operate without suffering any actual power restriction. That is, this power limit will permit mobile devices using LTE technology to operate at full power based on their design specifications. Moreover, 300 milliwatts EIRP is the level uniformly supported by the interference tests in the record as protecting against harmful interference into the 1930–1995 MHz PCS band.

110. Although we expect that setting the power limit at 300 milliwatts EIRP will not negatively affect mobile operations in either the Lower H Block or the 1930–1995 MHz PCS band, we observe that the test reports may not have fully captured the probabilistic nature of the interference scenario and that some of the assumptions used in performing the calculations in the interference tests may be overly conservative. It is important to identify these concerns with the test report inputs now so that they can be accounted for in future interference studies submitted to the Commission and because they also affect our analysis of OOBE interference, below. For the purpose of establishing the appropriate power limits, including under the Spectrum Act, the Commission determines what transmitter power level will prevent harmful interference, not simply detectable interference. For mobile-to-mobile interference, this is a probabilistic assessment. As we discuss further below in the discussion of OOBE limits, we find that the studies do not sufficiently account for the low probability of mobile-to-mobile interference actually occurring.

111. We are also concerned with some of the specific assumptions used in the test reports. In its analysis of the test data and stated conclusions for both the Sprint Test Report and the Verizon Wireless Test Report, V–COMM bases its conclusions on a number of assumptions, some of which may not be the most appropriate assumptions for calculating interference limits between nearby mobile systems. V–COMM bases its conclusions on the receiver's performance assuming a 1 meter separation between devices, a 1 dB desensitization level, and a data use case, which assumes 3 dB body loss and no head loss. Similarly, the AT&T/T-Mobile Test Report based its conclusions on a 1 meter device separation and a 1dB desensitization level. Further, unlike Verizon Wireless and Sprint, AT&T and T-Mobile made no provision for head or body loss.

112. First, one of several factors that will determine the likelihood of this probabilistic interference actually occurring is the separation distance between the mobile devices. As discussed below, a 2 meter separation between devices is a more appropriate separation distance than the 1 meter separation distance used in the studies. The Commission has adopted a 2 meter separation in the evaluation of other mobile-to-mobile interference scenarios, most recently in the AWS–4 proceeding. Further, AT&T and T-Mobile's concerns regarding the usefulness of testing under worst case conditions were demonstrated by the results for the high traffic test cases. The tested UMTS devices were unable to perform reliably under high traffic conditions, irrespective of the interference environment. Thus, the AT&T/T-Mobile test report lacks sufficient evidence to support any determination of harmful interference under high traffic conditions.

113. Second, as explained further below in setting OOBE limits, a 3 dB desensitization level is a more appropriate criterion than a 1 dB level upon which to judge harmful interference to mobile devices in cellular networks, which are designed to work in the presence of interference. For example, we observe that industry technical specifications for many types of devices that are currently used in the PCS band allow for a 3 dB degradation of the receiver sensitivity. The 3GPP2 standard for CDMA mobile devices sets the receiver performance requirements for intermodulation spurious response and receiver blocking based on a desired signal level of 3 dB above the reference sensitivity level. Based on the 3GPP2 standard for intermodulation, a CDMA device operating at 1% FER with a desired signal 3 dB above the reference sensitivity level is defined in the standard to be operating normally, and thus may be judged as not experiencing harmful interference. Similarly, the 3GPP standards for UMTS and LTE technologies allow the receiver sensitivity to degrade by 3 dB in response to interference. The LTE standard for receiver blocking is, moreover, is based on a desired signal level 6 dB above the receiver's reference sensitivity, requiring the receiver to perform in the presence of a strong interferer.

114. Third, as explained below, we believe it more appropriate to assume that the devices will be subject to both head and body loss, rather than just body loss. In both the Sprint Test Report and the Verizon Wireless Test Report, V–COMM tested for two different user scenarios. In one scenario, it assumed body loss only (that is, signal loss from proximity to the body, but not the head)—the data scenario. In the other scenario, it assumed signal loss from both the user's body and head—the voice scenario. For the data user scenario, V–COMM used a figure of 3 dB for body loss; for the voice scenario, it used 3 dB for body loss and another 5 dB for head loss. AT&T and T-Mobile did not apply any head or body loss in their analysis of the test results. As we describe further below, we believe it is more reasonable to use the voice user scenario, which includes both head and body loss assumptions, when determining interference rules.

115. We discuss our concerns with the use of these assumptions more fully below in establishing the OOBE limit.

116. Nevertheless, because, as explained above, the power limit that results from these tests will permit the deployment of full power H Block mobile devices in the 1915–1920 MHz band while also protecting commercial mobile service licensees in the 1930–1995 MHz band from harmful interference due to receiver overload, we find it unnecessary to adjust the studies for purposes of establishing power limits for operations in this band. Accordingly, we find it in the public interest, and consistent with the Spectrum Act's condition to protect the PCS downlink band from harmful interference, to set the power limit for mobile and fixed use in the 1915–1920 MHz band at 300 milliwatts EIRP.

b. Lower H Block Out-of-Band Emissions Limits

117. To minimize harmful interference between adjacent spectrum blocks, the Commission's rules generally limit the amount of RF power that may be emitted outside of the assigned block of an RF transmission. As explained below, we establish an OOBE limit for transmissions outside of the 1915–1920 MHz band of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, except that for emissions into the 1930–1995 MHz band we set an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts.

118. To minimize harmful electromagnetic interference between operators, the Commission has previously concluded that, in certain circumstances, attenuating transmitter OOBE by 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, is appropriate. This limit is generally applied in cases where adjacent services have similar characteristics, such as base-to-base or mobile-to-mobile and adhere to similar power limits. As such, this limit applies to most of the services authorized under parts 24 and 27, including transmitters operating in adjacent blocks in the 1850–1915 MHz PCS band, which is adjacent to the Lower H Block. The Commission proposed requiring the attenuation level of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, to emissions from transmitters in the 1915–1920 MHz band, generally. As explained above, the Spectrum Act requires additional analysis with regard to Lower H Block transmissions into the 1930–1995 MHz band. As stated in the *H Block NPRM* and above, the proximity of mobile-to-mobile operations may require stricter OOBE limits than the Commission might impose in other interference scenarios. Specifically, the Commission proposed an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for emissions into the 1930–1995 MHz PCS Band. Finally, the Commission proposed to apply the measurement procedure used in the PCS band to these OOBE limits.

119. As explained above, the record contains three studies that examined the appropriate technical parameters for H Block operations needed to avoid causing harmful interference, including OOBE interference, to existing PCS downlink operations at 1930–1995 MHz.

120. *Sprint and Verizon Wireless Test Reports—Test Setup.* For the Sprint Test Report and the Verizon Wireless Test Report, V–COMM tested both Sprint and Verizon Wireless devices for their performance against out-of-band emissions. Two interference cases were tested. For both sets of tests, the CDMA device was tuned to the PCS A Block and subjected to a desired signal representing first a 1 dB desensitization level, and, second, a 3 dB desensitization level, from the device's measured sensitivity level. A co-channel additive white Gaussian noise (AWGN) signal representing the interfering H Block device was then injected into the device's RF antenna port. The power level of the interfering signal level was increased until the FER was no more than 0.5%, and the results recorded.

121. *AT&T and T-Mobile Test Reports—Test Setup.* As discussed above, AT&T and T-Mobile did not provide details of their test setup, but noted some differences with Sprint and Verizon Wireless's test plan. In performing that evaluation, a key difference from the V–COMM tests was that 7Layers set the desired signal level according to typical design at the device's reference sensitivity. Additional tests were conducted to determine the levels at which 1 dB and 3 dB degradation of the device's measured sensitivity occurs. The AT&T/T-Mobile Test Report did not include GSM devices in the typical design conditions. We observe that the analysis within the AT&T/T-Mobile Test Report did not calculate the necessary OOBE limit directly from the results, but simply decided whether the limit calculated in the V–COMM tests would be sufficient.

122. *Sprint and Verizon Wireless Test Reports—Test Results.* For the Sprint Test Report and the Verizon Wireless Test Report, V–COMM reported an average interference level of −107 dBm when the desired signal was at the 3 dB desensitization level, and an average interference level of −113 dBm when the desired signal was at the 1 dB desensitization level. Examining the same two user scenarios as for the blocking and intermodulation tests, V–COMM interpreted these results as equivalent to an OOBE limit −53 dBm/MHz for the voice user scenario at the 3 dB desensitization level and 1 meter of separation between devices, and −63 dBm/MHz for the data use scenario under the same conditions. For the 1 dB desensitization level, the results showed an equivalent OOBE level of −59 dBm/MHz for voice use and −69 dBm/MHz for data use. V–COMM stated that an OOBE limit of −69 dBm/MHz would prevent desensitization of more than 1 dB for devices at a 1 meter separation. It further stated that an additional implementation margin of 3 dB would be appropriate, resulting in a recommended OOBE limit of −66 dBm/MHz based on the data use scenario. V–COMM asserted that this limit would be ''consistent with OOBE limits proposed in the FCC NPRM[s] in 2004 and 2008'' and ''also consistent with 3GPP OOBE limits for UMTS and HSPA devices.''

123. *AT&T and T-Mobile Test Reports—Test Results.* The AT&T/T-Mobile Test Report stated that the OOBE tests ''showed the greatest difference between airlink technologies.'' The report noted that ''UMTS and LTE displayed good immunity to wideband noise emissions from a nearby H Block transmitter.'' The report also stated that ''GSM devices displayed relatively poor rejection of OOBE interference.'' In the AT&T/T-Mobile Test Report, the average interference level for typical design conditions that produced 3 dB of desensitization of the receiver was −93.8 dBm. Similarly, the average interference levels for worst case conditions were −109.64 dBm and −104.8 dBm for 1 dB and 3 dB desensitization levels, respectively. This compares to the average levels of −113 dBm and −107 dBm for 1 dB and 3 dB desensitization levels, respectively, reported by both Sprint and Verizon Wireless.

124. *OOBE Proposals Based on Interference Testing.* Based on the testing, the parties generally proposed that the Commission adopt an OOBE limit of −66 dBm/MHz, which is equivalent to 96 + 10 $\log_{10}$ (P) dB (where (P) is the transmitter power in watts) for Lower H Block emissions into the 1930–1995 MHz band. Sprint, however, recognized that this level may be overly stringent. Sprint suggested that, if the low probability of the occurrence of the factors needed for mobile-to-mobile interference were fully taken into account, the necessary OOBE attenuation could be lower. Sprint then observed that ''[t]he 3GPP OOBE

standards for similar mobile-to-mobile coexistence situations are more typically −50 dBm/MHz [*i.e.,* 80 + 10 $\log_{10}$ (P) dB] (or −40 dBm/MHz [*i.e.,* 70 + 10 $\log_{10}$ (P) dB] when the two bands have little separation).'' Verizon Wireless disagreed with Sprint, arguing that, ''[a]lthough Sprint is correct as to the circumstances in which interference will occur, [Sprint] is wrong to imply that these circumstances occur only rarely.'' Instead, Verizon Wireless argues that ''mobile devices are most likely to be located very near each other at indoor locations where users are likely to receive a weaker signal . . . [which is] precisely what [OOBE] limits are designed to protect against.'' Neither AT&T nor T-Mobile addressed Sprint's suggestion that the OOBE could be set at a less stringent level than 96 + 10 $\log_{10}$ (P) dB. T-Mobile, while supporting the 96 + 10 $\log_{10}$ (P) dB OOBE limit, expressed concern that the AT&T/T-Mobile Test Report showed that GSM devices had ''a relatively poor rejection of OOBE interference at a separation distance of 1 meter.'' To address this concern, T-Mobile requested that the Commission require H Block licensees to notify PCS A Block licensees on a market-by-market basis when the H Block licensees turn on service. T-Mobile explained that this ''would enable full use of the H Block for LTE service while also assisting PCS licensees in network planning to reduce the probability of interference.''

125. For the reasons discussed below, except as otherwise specified, we adopt the proposed OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Lower H Block transmissions outside of 1915–1920 MHz. We adopt this limit below 1915 MHz and above 1920 MHz, with additional protections required for the 1930–1995 MHz band. For emissions into the 1930–1995 MHz band, we establish an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts.

126. *Emissions below 1915 MHz.* We adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB where (P) is the transmitter power in watts, for Lower H Block transmissions below 1915 MHz. Immediately below the Lower H Block is the 1850–1915 MHz PCS band, which is used for mobile transmit/base receive. As the Commission observed in the *H Block NPRM,* because it is anticipated that the Lower H Block systems will be similar in design to PCS and AWS–1, use of the 1915–1920 MHz band would be compatible with this adjacent PCS spectrum. That is, both bands will serve as mobile uplink bands. Thus, the OOBE level currently in the Commission's rules to protect adjacent PCS uplink blocks from harmful interference from each other should also be sufficient to protect PCS blocks in the 1850–1915 MHz band from Lower H Block emissions. Additionally, the OOBE limit of 43 + 10 $\log_{10}$ (P) dB where (P) is the transmitter power in watts, has effectively served to prevent harmful interference to operations in bands adjacent and nearby to PCS and AWS–1 operations. The Commission thus tentatively concluded that a more restrictive OOBE limit than those established for PCS and AWS–1 transmissions was not necessary for Lower H Block transmissions below 1915 MHz; a conclusion now supported by the record. As Sprint comments, ''[n]o industry commenter disputes the Commission's conclusion that [Lower] H Block uplink operations would not cause harmful interference to PCS operations located immediately below the uplink at 1850–1915 MHz.'' We therefore adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB where (P) is the transmitter power in watts, for Lower H Block operations below 1915 MHz.

127. *Emissions above 1920 MHz.* Except as specified below for emissions into the 1930–1995 MHz band, we adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Lower H Block transmissions above 1920 MHz. The OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, applies to most of the services authorized under parts 24 and 27, which have effectively relied on this limit in the Commission's rules to prevent harmful interference to operations in adjacent bands. We authorize H Block under part 27, and thus anticipate that H Block systems will be similar in design to PCS and AWS–1. Additionally, with respect to the immediately adjacent 1920–1930 MHz band, that band is designated for unlicensed use and operations in that band are required to accept interference from licensed operations, including those in the Lower H Block. Furthermore, except as discussed below regarding the 1930–1995 MHz band, no commenter opposed an OOBE limit of 43 + 10 $\log_{10}$ (P) dB above 1920 MHz. Therefore, we adopt an OOBE limit of 43 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, for Lower H Block transmissions above 1920 MHz, subject to the exceptions below.

128. *Emissions into 1930–1995 MHz.* In order to prevent harmful interference into the PCS downlink band at 1930–1995 MHz, as required by statute, we adopt a requirement that out-of band emissions into the 1930–1995 MHz band be attenuated below the transmitter power level by at least 70 + 10 $\log_{10}$ (P) dB, where (P) is the transmitter power in watts, (equivalent to −40 dBm/MHz) for fixed and mobile devices operating in the Lower H Block. We conclude that as a result of our adoption of this OOBE limit, licensees in the 1930–1995 MHz band will not experience a level of interference that seriously degrades, obstructs, or repeatedly interrupts their services. We base our finding on Commission precedent, experience with the probabilistic nature of mobile-to-mobile interference, and analysis of the test data submitted into the record.

129. *Commission Precedent.* We find an OOBE limit at 70 + 10 $\log_{10}$ (P) dB, where (P) is the mobile transmitter power in watts, is consistent with Commission precedent. The interference scenario before us involves setting limits for Lower H Block mobile device out-of-band emissions that prevent harmful interference to PCS devices in the 1930–1995 MHz band. Last year, in the *AWS–4 Report and Order,* the Commission addressed the issue of mobile-to-mobile interference from AWS–4 mobile devices operating in the AWS–4 2000–2020 MHz uplink band to operations in the PCS downlink band and to future Upper H Block operations in 1930–2000 MHz. In the AWS–4 proceeding, the Commission had proposed an OOBE limit of 70 + 10 $\log_{10}$ (P) dB, where P is the transmitter power in watts, from AWS–4 operations in the 2000–2020 MHz band into frequencies below 2000 MHz. The Commission proposed this attenuation level because it was previously set forth in the part 25 rules for Ancillary Terrestrial Component (ATC) operations in the 2000–2020 MHz band into spectrum below 1995 MHz. Parties in the AWS–4 proceeding generally supported the proposed OOBE level, and no party to that proceeding proposed an alternative limit. After reviewing the record before it—a record compiled after enactment of the Spectrum Act—the Commission adopted a maximum attenuation level of 70 + 10 $\log_{10}$ (P) dB for AWS–4 transmissions into both the Upper H Block below 2000 MHz and the PCS band below 1995 MHz.

130. The scenario in the AWS–4 proceeding is on point with that facing us here. In both cases the interference scenario is mobile-to-mobile interference. In both cases, the Commission was faced with establishing an OOBE limit for transmissions from nearby operations into the PCS downlink band at 1930–1995 MHz. In the AWS–4 proceeding, the Commission also examined the same interference scenario into the immediately adjacent

Upper H Block. Further, in one important respect, the interference scenario before us now represents a scenario less likely to result in harmful interference than the one we addressed in the AWS–4 proceeding. Specifically, the Lower H Block is 10 megahertz away from the PCS downlink band, whereas the AWS–4 uplink band is 5 megahertz away from the PCS band and directly adjacent to the Upper H Block. Lower H Block operators will thus have 10 megahertz of frequency separation from the PCS band for emissions from their devices to roll off, while AWS–4 operators have no frequency separation for roll off between the AWS–4 uplink band and the Upper H Block. Stated otherwise, the interference scenarios here and in the AWS–4 proceeding effectively bookend the 1930–2000 MHz frequencies, with the emissions entering those from frequencies from below 1930 MHz and from above 2000 MHz needing to meet the same attenuation levels, but with Lower H Block operators having 10 megahertz rather than 5 megahertz or zero megahertz of separation in which to roll off to achieve the limit. Accordingly, we find it consistent with AWS–4 precedent to set the OOBE limit for Lower H Block operations into 1930–1995 MHz at 70 + 10 $\log_{10}$ (P) dB, where (P) is the mobile transmitter power in watts.

131. In adopting the 70 + 10 $\log_{10}$ (P) dB OOBE limit also set in the AWS–4 proceeding, we observe that this limit is the most stringent limit in the Commission's rules for operations in a commercial uplink band protecting another band. For example, for the 800 MHz cellular band and the Lower and Upper 700 MHz bands (generally), the Commission adopted an OOBE limit of 43 + 10 $\log_{10}$ (P) dB (with a measurement bandwidth of 100 kHz, which is equivalent to 33+ 10 $\log_{10}$ (P) dB with a measurement bandwidth of 1 MHz); and for the broadband PCS band, the AWS–1 band, and the AWS–4 band (except below 2000 MHz), the Commission adopted a mask of 43 + 10 $\log_{10}$ (P) dB (with a measurement bandwidth of 1 MHz). Moreover, within these bands are examples of mobile-to-mobile interference scenarios at frequency separation distances similar to those that exist between the Lower H Block and the PCS downlink band. For example, Lower 700 MHz C Block mobile devices are required to attenuate transmissions at 43+ 10 $\log_{10}$ (P) dB (with a measurement bandwidth of at least 100 kHz) above 716 MHz, including into the Lower 700 MHz A Block downlink band at 728 MHz. Similarly, in determining the OOBE limit for Upper 700 MHz C Block mobile devices into the nearby public safety downlink band, the Commission set the limit at the equivalent of 43 + 10 $\log_{10}$ (P) dB (with a measurement bandwidth of 1 MHz). In addition, when 3GPP decided that public safety mobile devices required greater protection than the Commission limit, it set a higher limit of 65 + 10 $\log_{10}$ (P) dB (with a measurement bandwidth of 1 MHz or greater). As part of the 3GPP deliberations, Verizon Wireless, a licensee of significant Upper 700 MHz C Block spectrum, agreed that this level provided sufficient protection to our Nation's first responders. Yet, here, in the H Block proceeding, wireless providers are advocating for a limit that is 31 dB (*i.e.,* more than 1,000 times) more stringent than the protection afforded public safety. We would expect, to the contrary, that protection levels sufficient for public safety would normally be sufficient to protect commercial mobile service providers.

132. Not only is the OOBE limit of 96 + 10 $\log_{10}$ (P) dB much more stringent than the limits the Commission has adopted in any other band, it may be very difficult to realize. Sprint submitted a presentation from Avago Technologies that showed one solution using an FBAR (Film Bulk Acoustic Resonator) filter to meet the OOBE limit. The proposed filter was designed to support a single ten megahertz passband covering only the PCS G Block and the proposed H Block. As Sprint is the sole licensee for the PCS G Block, the filter design is very specialized for Sprint's purposes and is unlikely to be useable by other operators that may need to use larger passbands or other more commonly used filter technologies. It is important that the limits we set for H Block operations maximize the utility of the band for all potential licensees and provide for the public good.

133. *Probabilistic Interference.* In evaluating the interference scenario here, it is important to account for its probabilistic nature. In order for mobile-to-mobile harmful interference actually to occur, a number of worst case factors must all happen in conjunction with each other. These factors include that the two mobile devices (1) must be in operation at the same time, (2) must be located in very close proximity to each other, (3) must remain in close proximity for a significant period of time (*i.e.,* proximity must not be transient), (4) must be operating in a weak signal environment with both (a) the interfering mobile transmitter operating at maximum power and (b) the PCS mobile receiver receiving a weak signal and using frequencies most likely to lead to interference (*e.g.,* the interfering device must be capable of using the Lower H Block, actually transmitting on the Lower H Block, and transmitting on a resource block(s) near the upper edge of that band; the PCS device must similarly be operating on a receiver frequency near or at the lower edge of the PCS band), and (5) must be operating in a line of sight environment with respect to each other. Indeed, the Commission has described this issue for these bands previously, stating that ''[t]he worst case occurs when the mobile transmitter is operating at maximum power (near the edge of its service area) at the upper edge of the band (near 1920 MHz) and the mobile receiver is trying to receive a weak signal (near the edge of its service area) at the lower edge of the band (near 1930 MHz) and only free space loss is considered.''

134. In addition, mobile devices do not transmit continuously; rather, they transmit data in bursts. For example, for LTE devices, mobile data is organized in resource blocks, which allocate a set of subcarrier frequencies for a 1 ms (millisecond) time interval. The frequency and duration of these bursts, or number of allocated resource blocks, depends upon traffic loads and signal conditions. For interference to PCS mobile devices to occur the H Block mobile must be transmitting in the same time interval that the PCS device is receiving. Thus, by transmitting in bursts, the likely use of LTE devices in the H Block would further dilute the probability of interference occurring. In addition, wireless networks constantly measure performance and seek to switch devices to alternative resources to improve call quality (*e.g.,* handoff to another channel or another base station).

135. The record supports this description of the factors that generally need to occur to give rise to mobile-to-mobile interference. For example, Sprint stated that ''many factors come into play for such mobile-to-mobile interference.'' It observed that interference would only occur if ''(1) the PCS device is attempting to receive a weak signal at the bottom end of the PCS band; (2) the two mobile devices are located very near to each other; and (3) the H block device is transmitting at the same instant, with high power and in the resource blocks at the upper end of the H block.'' Verizon Wireless concurred, expressly stating that ''Sprint is correct as to the circumstances in which interference will occur.'' Accordingly, we reiterate that mobile-to-mobile interference will occur only in specific

situations, such as those described above.

136. The risk of mobile-to-mobile interference occurring is influenced by the low probability of these worst-case circumstances occurring—they may occur, but do so infrequently—and by network management practices, such as hand off and power management, that are designed to mitigate against harmful interference. For example, Sprint states that LTE ''spreads across the bandwidth, dynamically controlling the power and number of subcarriers assigned to a particular device and reducing the need for constraining OOBE limits.'' Moreover, as Sprint observes, ''[p]robability certainly plays a large factor as to when [the above] conditions would occur in the real world.'' We believe that the probability of each of the described mobile-to-mobile interactions actually occurring is small individually, and quite small viewed in combination. Thus, we disagree with Verizon Wireless's assertion that the combination of circumstances resulting in interference does not ''occur only rarely . . . [because] mobile devices are most likely to be located very near to each other at indoor locations where users are likely to receive a weaker signal.'' Although the confluence of worst case scenarios may occur more often indoors than outdoors, it does not necessarily follow that these situations occur indoors with any frequency; nor has Verizon Wireless provided any evidence showing that these factors occur frequently indoors. Further, in areas where wireless providers anticipate recurring high density use of mobile devices, providers typically engineer their networks to provide robust coverage, including for indoor locations.

137. We apply our discussion of the probabilistic nature of mobile-to-mobile interference to our evaluations of the test reports, immediately below.

138. *Test Reports.* While we believe it appropriate to act consistently with the Commission's recent determination in the AWS–4 proceeding that an attenuation limit of $70 + 10 \log_{10} (P)$ dB, where P is the transmitter power in watts, from the AWS–4 uplink band into the PCS downlink band at 1930–1995 MHz to set that same limit here for transmissions from the Lower H Block into the PCS downlink band, we believe it appropriate to test this conclusion against the test reports submitted into the record here. As explained above, parties submitted three test reports into the record. We assess these reports based on our engineering expertise and with the goal of auctioning the Lower H Block in a manner that maximizes its usefulness while protecting the PCS band from harmful interference, as required by the Spectrum Act.

139. We have a number of concerns with the test reports. In particular, as we discuss above, although we do not question the science behind the reports, we find a number of assumptions used by the parties in their interference tests are overly conservative for use in setting reasonable OOBE limits. Specifically, we find the testing (1) failed to fully account for the low probability of mobile-to-mobile interference, (2) assumed an overly conservative required separation distance of 1 meter, (3) relied on limiting interference to an overly conservative 1 dB desensitization level, (4) relied on an overly restrictive user scenario that accounted for body loss only, as opposed to head and body loss, and (5) included an unnecessary manufacturer's tolerance. We address each of our concerns with the test reports, below, in turn.

140. First, the test reports do not fully account for the highly probabilistic nature of OOBE interference from the Lower H Block into the PCS downlink band. As explained above, many low probability factors must occur in conjunction for interference to occur in a mobile-to-mobile scenario. Because our charge is to prevent harmful interference, rather than all interference, accounting for the likelihood that an instance of interference will occur is important in assessing whether the interference scenario rises to the level of harmful interference. For example, as the Commission has said previously, whether the user would actually notice the interference may be an important element of determining if interference is harmful. Except for one factor—separation between devices, which we discuss immediately below—no information provided in the test reports indicates that they accounted (or attempted to account) for the probabilistic nature of the interference. Because the test reports did not fully account for the probabilistic nature of the interference at issue, we believe they overstate the protection from OOBE interference needed by licensees operating in the 1930–1995 MHz band.

141. Second, we examine the one probabilistic factor included in the test reports—separation distance. The selection of the separation distance between devices is a key factor in determining the probability of that interference could occur. As stated above, the Sprint Test Report, the Verizon Wireless Test Report, and the AT&T/T-Mobile Test Report all assumed a separation of 1 meter between devices. A 1 meter separation is often used as a minimum separation distance in industry analyses of mobile-to-mobile interference. Distances of less than 1 meter risk the possibility that near field antenna coupling effects may distort the propagation between the two devices and undermine the assumption of free space path loss. Again, as discussed earlier, the simple presence of interference is not necessarily the same as harmful interference. To determine what interference is sufficient to be considered harmful, one should consider whether there is a reasonable probability that the conditions necessary to create that interference will occur. The Commission has previously supported a separation of 2 meters as an appropriate assumption for the purposes of determining an acceptable level of interference. For example, in the *AWS Sixth Report and Order,* the Commission expressed support for a 2 meter separation distance, stating that ''this short distance coupled with the low probability of occurrence of the worst-case scenario (both mobiles at the edge of coverage, both operating at the edge of the band, both simultaneously active, and both in close proximity to each other), make interference of this nature highly unlikely.'' More recently, in the *AWS–4 Report and Order,* the Commission found it reasonable to rely on the 2 meter separation distance proposed by Motorola Mobility in calculating interference limits. Accordingly, we believe that a 1 meter separation distance represents an overly conservative value and that it is a more realistic scenario to assume that the devices at issue are likely to be at least 2 meters apart.

142. Third, we turn to inputs used in the test reports that are not associated with the probabilistic nature of the interference scenario, and start with the desensitization level. While the reports use a 1 dB desensitization level, we believe a 3 dB level is more appropriate. The Sprint and Verizon Wireless test reports include results of the testing for both the 1 dB and 3 dB desensitization levels, but focused their analysis of the results on the 1 dB desensitization level. For purposes of the AT&T/T-Mobile Test Report, AT&T and T-Mobile designed their test plan to use a 3 dB desensitization of the receiver's sensitivity. The desensitization was based on the device's reference sensitivity per the standard for the technology, rather than by the individual device's measured sensitivity (the approach used by Sprint and Verizon Wireless). AT&T and T-Mobile described this test strategy as a typical design test, observing that most link

budgets, which drive the design of the network, use the standard's reference sensitivity. Further, they stated that the reference sensitivity, as opposed to the individual device's measured sensitivity allows all devices ''to be tested in exactly the same environment'' for a better comparison of device performance.

143. A 1 dB desensitization level is defined as the level of interference at which the effective noise floor of the system will rise by 1 dB, that is, the receiver sensitivity will be reduced by 1 dB. This occurs when the interfering signal level is 6 dB below the noise floor of the receiver. Similarly, 3 dB desensitization occurs when the level of interference is equal to the level of the receiver's system noise. 1 dB desensitization is most commonly used as an interference protection criterion for noise-limited receiver systems. However, mobile cellular systems are inherently interference-limited; that is, the prevailing interference is greater than noise sources. These systems are designed to perform in a strong interference environment, much of which is often self-generated, coming from other network elements (*e.g.,* other nearby base stations in the same or adjacent bands).

144. We believe that a noise-limited interference criterion (1 dB desensitization) is too restrictive for modern cellular systems. This is reflected in industry standards for receiver performance, such as the 3GPP2 standard for CDMA devices. As described above, the 3GPP2 standard for cdma2000 mobile devices sets several receiver performance requirements, including response to receiver overload (blocking) and intermodulation. For example, 3GPP2 Requirement 3.5.2 for Single Tone Desensitization, similar to the intermodulation tests performed by V–COMM, sets the level of the desired signal at either 3 dB or 10 dB above the reference sensitivity level. Similarly, under the 3GPP2 standard, receiver blocking also permits sensitivity to degrade by 3 dB above its reference level in the presence of overload interference while maintaining a 10% FER. CDMA is not the only technology to require the receiver to operate properly in the presence of interference. The 3GPP standard for UMTS and LTE devices specifies an in-band blocking requirement that sets the interfering signal level 6 dB or more above the reference sensitivity level. Further, for GSM, the desired signal is set at 3 dB above reference sensitivity for in-band and out-of-band blocking. These examples demonstrate that a desensitization of 3 dB in the presence of a specific interferer is acceptable in the above standards for determining receiver performance and may be considered normal operation. In other words, these standards bodies have considered a 3 dB desensitization level as an acceptable level of performance and have not viewed it as indicative of harmful interference. In addition, in other proceedings, other parties and the Commission have used a 3 dB desensitization of the receiver in analyzing similar mobile-to-mobile interference scenarios. For example, in addressing a similar mobile-to-mobile interference scenario in the AWS–4 proceeding, the Commission viewed as reasonable a 3 dB desensitization level recommended by Motorola Mobility. Finally, although the AT&T/T-Mobile Test Report used a 1 dB desensitization level for its conclusions, the report states that a 1 dB desensitization level is not typical. The AT&T/T-Mobile Test Report characterized the desired signal conditions used in the Sprint and Verizon Wireless tests as representing worst case conditions. The report noted that ''the disadvantage to this approach is that we utilize an operating point that is probably well above the device's actual sensitivity. Thus, a stronger interfering signal is required to realize impairment in performance.'' Moreover, in specifically commenting on the appropriate desensitization level, the report states: ''The 1 dB desense point was used by AT&T/T-Mobile only because this is one of two operating points utilized in the filings from Sprint and Verizon Wireless. It is not typically used during conformance or performance testing, primarily because the measurement uncertainty associated with it is rather high. The measurement metric (throughput or BER/FER) displays highly non-linear behavior.'' We observe that neither Sprint nor Verizon Wireless explain why they used a 1 dB desensitization level. We therefore find that the 3 dB desensitization level to be a more appropriate metric for determining the presence of harmful interference.

145. Fourth, we assess the two user scenarios contained in the Sprint Test Report and the Verizon Wireless Test Report and the different assumptions contained in the AT&T/T-Mobile Test Report. In the Sprint and Verizon Wireless reports, V–COMM made certain assumptions on how the device would be used and set up two user scenarios, one simulating data use and the other simulating a user making a voice call. V–COMM assumed that, during data use, the device would be in held in the user's hand and would experience 3 dB in body loss. If both the interfering and receiving devices were held in the hand, a total of 6 dB of body losses would occur. In the case of a user making a voice call, where the device was held to the user's head, there would be 8 dB of combined head and body losses. Thus, if both the transmitting and receiving users were engaged in a voice call, there would be a total of 16 dB of head and body losses. The analysis provided in the AT&T/T-Mobile Test Report made no provision for either head or body loss in setting the criteria for their analysis. The report stated, however, that ''additional losses, such as those attributable to the presence of the user's hand, holding the device to the head, etc., would reduce both the Lower H Block power level and OOBE further.'' This statement effectively acknowledges that head and body loss may be appropriate, yet the report does not apply any in the analysis.

146. The specific values of head and body loss can be affected by a number of factors, particularly frequency, and do not have uniformly accepted values. For example, in the recently concluded AWS–4 proceeding, Motorola assumed a 10 dB head and body loss. Both Sprint and Verizon Wireless have adopted an 8 dB head and body loss in their respective test reports. We accept these proposed values for body loss and head loss as within the range of reasonableness for our calculations here. V–COMM calculated the OOBE limit required under both user scenarios. The OOBE limit proposed by both Sprint and Verizon Wireless was based on the assumption that both devices are being used for data. In previous Commission analyses of mobile-to-mobile interference, however, the user scenario has been for voice use; that is, in prior Commission analysis, the total losses attributable to head and body losses have been in the range of as much as 6 to 10 dB for each device (both the transmitting and receiving device). Moreover, interference does not affect voice and data in the same manner. The user is much more likely to notice interference during a voice call than during data use. The provision of voice service requires low latency in the transmission link. Therefore, noise due to interference can be immediately perceptible to the voice user. Harmful interference potentially can cause the voice call to terminate. Data traffic, on the other hand, can be much more sporadic, even under good signal conditions, and can often tolerate some data losses. If interference prevents data from being received and properly

decoded, the information may be retransmitted until it is received correctly. This retransmission may cause delays in the data transmission, and effectively slow the data throughput rate, but the data session likely will continue through to completion. Significantly, these delays are likely imperceptible to the user in most data scenarios. As explained above, we consider that interference should be judged harmful when it is readily perceptible to the user in most cases. Consequently, because instances of interference are more likely to be perceptible to the voice user than to the data user, we find it more appropriate to use the voice user case when setting the appropriate attenuation level necessary to avoid OOBE interference.

147. Fifth, we are concerned that the Sprint Test Report and the Verizon Wireless Test Report use a 3 dB ''implementation margin'' to adjust the proposed OOBE limit. The AT&T/T-Mobile Test Report did not include an implementation margin. It is not clear what issue an implementation margin is designed to address or why it is appropriate. In using a 3 dB implementation margin, the test reports adjust the proposed OOBE limit from −69 dBm/MHz to −66 dBm/MHz (*i.e.,* from 99 + 10 $\log_{10}$ (P) dB to 96 + 10 $\log_{10}$ (P) dB). Thus, unlike all of the test report inputs discussed above, inclusion of this input results in making the OOBE less strict. The Sprint and Verizon Wireless test reports state that the adjusted OOBE limit ''is consistent with OOBE limits proposed in the FCC NPRM in 2004 and 2008 . . . [and] with 3GPP OOBE limits for UMTS and HSPA devices . . . . OOBE of all devices tested in 2004 comply with −66 dBm/MHz . . . pursuant to CTIA's H-Block tests.'' No reason was provided to support a need for the OOBE limit we are now establishing to be consistent with earlier testing or earlier Commission proposals. Rather, as we explain above, technology has advanced considerably since earlier tests were performed and we would expect that the purpose of any new testing would be to provide temporally relevant data, not to match earlier data. Thus, we question the propriety of including this implementation margin.

148. In light of all of these concerns with the test reports, we decline to use them as the basis to establish the OOBE limit for Lower H Block emissions into the 1930–1995 MHz band. Rather, as explained above, we find it more appropriate to rely on Commission precedent for the same mobile-to-mobile interference scenario we face here, but from the other end of the PCS band, to establish the OOBE limit. We find that relying on this precedent is preferable to making the numerous adjustments that would be necessary to rely on the studies, particularly given that it may not be possible to fully adjust the studies to account for all of the issues detailed above, including, in particular, the probabilistic nature of the interference. Finally, we observe that our rules contain a savings provision that permits the Commission, in the event that harmful interference occurs, to require greater attenuation than the level we set here.

149. *Measurement Procedure.* The Commission proposed to apply the measurement procedure used in the immediately adjacent PCS uplink band (1850–1915 MHz) to the OOBE limit set for the Lower H Block. For this PCS band, the measurement bandwidth for mobile stations is one megahertz or greater, with some modification in the one-megahertz bands immediately outside and adjacent to the frequency block where a resolution bandwidth of at least one percent of the emission bandwidth of the fundamental emission of the transmitter may be employed. No party commented on this proposal. To treat mobile operations in the Lower H Block in an equivalent manner to mobile operation in the adjacent PCS band, we therefore adopt the Commission's measurement procedure proposal.

150. *Commenter Notification Proposal.* We adopt a proposal set forth by T-Mobile to require Lower H Block licensees to notify operators in the A Block of the PCS downlink band (1930–1945 MHz) when the H Block licensee turns on service. T-Mobile proposed to require H Block licensees ''to provide notification to PCS A Block licensees when they turn on service in the H Block on a market-by-market basis.'' T-Mobile argues that this requirement is needed because ''GSM devices may not be adequately protected'' by our Lower H Block power limit and OOBE limit rules. T-Mobile asserts that this notification requirement would ''assist[] PCS licensees in network planning to reduce the probability of interference.''

151. For the reasons stated above, we cannot determine that PCS licensees will experience harmful interference from Lower H Block operations. Nevertheless, we adopt a notification requirement out of an abundance of caution and in light of the specific statutory condition requiring that H Block operations not cause harmful interference to PCS licensees. Although the Commission does not generally require part 27 licensees to provide notification to operators in adjacent or nearby bands when they commence service, the Commission has done so in at least one instance. Specifically, the Commission has required providers of 2.3 GHz WCS, a part 27 service, to provide notification to certain providers operating in nearby spectrum with notice 30 days before commencing operations of a new transmitting site. Here, we have a statute that requires H Block operations not cause harmful interference to PCS downlink operations and a PCS licensee with considerable operations in the lower portion of the PCS A Block—the spectrum in closest proximity to the Lower H Block—stating that a notification requirement would ''assist PCS licensees in network planning to reduce the probability of interference.'' Thus, while we believe that the technical rules we adopt above are sufficient to prevent harmful interference from Lower H Block operations to PCS licensees operations in the 1930–1995 MHz band, we find adoption of a notification requirement appropriate as an additional safeguard against harmful interference. In the event, contrary to our predictive judgment, that we determine following such notification that H Block uplink operations do result in harmful interference to A Block PCS downlink operations in any particular location, we will take appropriate action to address such situations.

152. In adopting this notification requirement, we provide basic parameters for how the notification shall be provided. We do so to avoid confusion, despite the lack of details contained in the T-Mobile proposal. T-Mobile requested H Block licensees provide PCS A Block licensees with notification when the H Block licensee ''turn[s] on service'' on a ''market-by-market basis.'' T-Mobile did not define these terms. Because the interference scenario between the Lower H Block and the PCS downlink band is one of mobile-to-mobile interference, we find it logical (for the sole purpose of the notification requirement we adopt here) to equate turning on service to when a consumer mobile device begins to operate in the band, *i.e.,* when service is first provided to a consumer. In addition, we find it logical to relate the term market (for the sole purpose of the notification requirement we adopt here) to the geographic license area we adopt for the H Block—Economic Areas (EAs). Accordingly, we require each Lower H Block licensee to provide all PCS A Block (1930–1945 MHz) licensees within the geographic scope of the Lower H Block license with written notification that the H Block licensee

has begun providing service; such notice must be provided on the date when the Lower H Block licensee first begins to provide service to a consumer using the Lower H Block.

3. Canadian and Mexican Coordination

153. In the *H Block NPRM,* the Commission proposed to apply the approach used by AWS–1 operations to coordinate with Canada and Mexico to H Block operations. We adopt this approach and observe that because of our shared borders with Canada and Mexico, the Commission routinely works in conjunction with the United States Department of State and Canadian and Mexican government officials to ensure the efficient use of the spectrum as well as interference-free operations in the border areas. Until such time as any adjusted agreements, as needed, between the United States, Mexico and/or Canada can be agreed to, operations must not cause harmful interference across the border, consistent with the terms of the agreements currently in force. We note that further modifications of the rules might be necessary in order to comply with any future agreements with Canada and Mexico regarding the use of these bands.

4. Other Technical Issues

154. In addition to the specific technical issues addressed above, the Commission also proposed applying additional part 27 rules to the H Block band. Specifically, the Commission proposed applying the following rule sections: § 27.51 (Equipment Authorization); § 27.52 (RF Safety); § 27.54 (Frequency Stability); § 27.56 (Antenna structures; air navigation safety); and § 27.63 (Disturbance of AM broadcast station antenna patterns). The Commission reasoned that because H Block will be licensed as an Advanced Wireless Service under part 27, these rules should apply to all licensees of H Block spectrum, including licensees who acquire their H Block license through partitioning or disaggregation. No commenters opposed this proposal. In the *H Block NPRM,* the Commission directed commenters desiring to address a change in the Commission's RF exposure standards to file in both the H Block proceeding and in ET Docket No. 03–137. *See H Block NPRM,* 27 FCC Rcd at 16276 para. 53 n.95. Numerous parties submitted comments, replies, or *ex parte* filings into either the H Block proceeding or ET Docket No. 03–137, or in most instances into both dockets, advocating that the Commission re-examine its RF exposure standards. On March 27, 2013, the Commission adopted a *First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry* on RF exposure issues. *See* Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies, ET Docket No. 13–84, *Notice of Inquiry,* and Proposed Changes in the Commission's rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields, ET Docket No. 03–137, *First Report and Order and Further Notice of Proposed Rulemaking,* 28 FCC Rcd 3498 (2013). ET Docket No. 03–137 is mainly procedural, and does not reach the issue of whether the Commission's limits on human exposure to RF energy are appropriate. ET Docket No. 13–84 is a new docket in which the Commission seeks information and comment as to whether it should undertake a rulemaking to revise its existing RF exposure standards. We hereby incorporate comments addressing the RF exposure standards filed in the H Block proceeding, as well as those in ET Docket No. 03–137, until the release date of this *H Block Report and Order,* into the open proceeding on RF exposure issues in ET Docket No. 13–84, as appropriate. Further, the Commission will periodically monitor the H Block proceeding for 30 days following publication of the *H Block Report and Order* in the **Federal Register** to ensure that any additional misfiled relevant comments addressing the RF exposure standards are appropriately considered in ET Docket No. 13–84. Accordingly, because these rules generally apply to all part 27 services, and because, as we explain above, we find it appropriate to license the H Block under our part 27 regulatory framework, we conclude that the potential benefits of our proposal would outweigh any potential costs and adopt the proposal to apply these additional part 27 rules to licensees of H Block.

155. In the *H Block NPRM* the Commission observed that H Block spectrum is adjacent to Broadband PCS spectrum, which is administered under part 24, and that it is therefore possible that a single entity could obtain licenses for both bands in the same geographic area and seek to deploy a wider channel bandwidth in that area across both bands. If we permit operations under such a scenario, we need to determine which rule part should govern the combined operations across the band. In the *H Block NPRM,* the Commission proposed to allow such operations and, should there be a conflict in the rules applicable to both bands, to apply the more restrictive rule across the combined operations. No party commented on these proposals. We continue to believe it is in the public interest to permit operations across the PCS downlink band and the Upper H Block in the event that an entity obtains licenses to operate in the same geographic area in both bands. In particular, because we adopt an EA-based licensing scheme for H Block, and the PCS G Block, 1990–1995 MHz has been licensed on an EA basis, we believe that by allowing an operator to unify operations across adjacent blocks may benefit the public interest by providing consumers with better, more affordable services through increased service coverage and eliminate redundancy. To ensure that this decision does not negatively affect adjacent band licensees, we also adopt the Commission's proposal to apply the more restrictive rule across the combined band in situations where the part 24 and part 27 interference or other technical rules differ. For example, in the event a single licensee operates in a unified manner in a geographic area across both the PCS G Block at 1990–1995 MHz and the Upper H Block, that entity would be required to comply with the H Block requirement for OOBEs from the combined 1990–2000 MHz band into frequencies above 2000 MHz.

D. Cost-Sharing

156. *Background—1915–1920 MHz Band.* The 1915–1920 MHz band has historically been a subset of a larger band at 1910–1930 MHz that is currently allocated for Fixed and Mobile services on a primary basis. Before 1993, the 1910–1930 MHz band was allocated for Fixed services and used for fixed point-to-point microwave links. In 1993, the Commission designated the 1910–1930 MHz band for use by Unlicensed Personal Communications Service (UPCS) devices. To facilitate the introduction of UPCS systems, the Commission designated the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management (now known as ''UTAM, Inc.'') as the sole entity to coordinate and manage the transition. In accordance with the Commission's policies established in the *Emerging Technologies* proceeding, UTAM subsequently relocated virtually all of the incumbent microwave links, thereby clearing the 1910–1930 MHz band for use by UPCS systems.

157. In 2003, the Commission sought comment on re-designating all or a portion of the 1910–1920 MHz segment for AWS use. In 2004, the Commission re-designated the 1910–1915 MHz band from the UPCS to Fixed and Mobile services and assigned that spectrum to

Sprint Nextel, Inc. (''Sprint'') as replacement spectrum for Sprint's operations being relocated from the 800 MHz band. Sprint then reimbursed UTAM soon after it received its licenses for the 1910–1915 MHz and 1995–2000 MHz bands from the Commission. Shortly after re-designating the 1910–1915 MHz band, the Commission also re-designated the 1915–1920 MHz band from UPCS to use by licensed AWS operations. In so doing, the Commission acknowledged that ''UTAM must be fully and fairly reimbursed for relocating incumbent microwave users in this band'' and determined ''that UTAM should be made whole for the investments it has made in clearing the UPCS bands.'' Relative to the Lower H Block, the Commission specifically concluded that ''UTAM is entitled to reimbursement of twenty-five percent—on a *pro-rata* basis—of the total costs it has incurred . . . as of the date that a new entrant gains access to the 1915–1920 MHz spectrum band.'' The Commission also determined that AWS licensees would be required to pay their portion of the twenty-five percent of costs prior to commencement of their operations. In total, the relocation costs attributable to the Upper H Block licenses amounts to $12,629,857.

158. *1995–2000 MHz Band.* The 1995–2000 MHz band is part of the 1990–2025 MHz band that the Commission reallocated from the Broadcast Auxiliary Service (BAS) to emerging technologies such as PCS, AWS, and Mobile Satellite Service (MSS). Consistent with the relocation and cost-sharing principles first established in the Commission's *Emerging Technologies* proceeding, each new entrant had an independent responsibility to relocate incumbent BAS licensees. Under these procedures, the first new entrant into the band that incurs relocation expenses for the relocation of incumbents from portions of the band that the new entrant will not occupy is, as a general matter, eligible to obtain reimbursement from subsequent entrants in the band. More specifically, the Commission determined that an AWS entrant's cost-sharing obligation for the 1995–2000 MHz band will be triggered upon the final grant of the long form application for each of its licenses. Sprint, which is the PCS licensee at 1990–1995 MHz, completed the BAS transition for the entire 35 megahertz in 2010. In 2011, Sprint notified the Commission that it entered into a private settlement with DISH to resolve the dispute with MSS licensees with respect to MSS licensees' obligation to reimburse Sprint for the MSS licensees' shares of the BAS relocation costs related to the 2000–2020 MHz band. Accordingly, the only remaining cost-sharing obligations in the 1990–2025 MHz band are attributable to the remaining, unassigned ten megahertz of spectrum in the 1990–2025 MHz band: 1995–2000 MHz and 2020–2025 MHz. Because the 1995–2000 MHz band represents one-seventh of the relocated BAS spectrum, the relocation costs collectively attributable to the Upper H Block licenses amounts to a total of $94,875,516.

159. *H Block NPRM. In the 2012 H Block NPRM,* the Commission again sought comment on how to apportion UTAM's reimbursement among Lower H Block licensees and Sprint's reimbursement among Upper H Block licensees. The Commission observed that it is important to provide auction bidders with reasonable certainty as to the range of the reimbursement obligation associated with each license under various auction outcomes. Further, with regard to the Lower H Block, the Commission also expressed concern that the rules enable UTAM to be fully reimbursed as soon as possible given that UTAM cleared the band over ten years ago. The Commission therefore proposed to require Lower H Block licensees to pay a *pro rata* amount of the twenty-five percent owed to UTAM based on the gross winning bids of the initial H Block auction. Specifically, the Commission proposed that the reimbursement amount owed (''RN'') be determined by dividing the gross winning bid (''GWB'') for an H Block license (*i.e.,* an individual EA) by the sum of the gross winning bids for all H Block licenses won in the initial auction and then multiplying by $12,629,857, the total amount owed to UTAM for clearing the 1915–1920 MHz band. This amount—$12,629,857—is the amount UTAM has identified for years as the amount collectively owed by future Lower H Block licensees to UTAM for UTAM's clearing of the 1910–1930 MHz band; that is, this amount represents one-fourth of UTAM's total reimbursable clearing costs for the entire 1910–1930 MHz band. *See* UTAM Comments at 3; Letter from Michael Stima, Managing Director, UTAM, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 04–356, at Attach. 1 (filed May 21, 2007); *H Block NPRM,* 27 FCC Rcd at 16278 para. 58. No party has disputed this amount in the record before us. The Commission also observed that Sprint has already cleared the Upper H Block, thereby enabling licensees to benefit from the band clearing as soon as they obtain licenses. The Commission thus proposed the same cost-sharing formula for the upper band, as it did for the lower band, applying Sprint's (rather than UTAM's) clearing costs of $94,875,516 in the formula for the Upper H Block.

160. The Commission proposed these formulas in an effort to ensure that UTAM and Sprint receive full reimbursement after the first auction by effectively apportioning the reimbursement costs associated with any unsold H Block licenses among the winning bidders of all of the licenses sold in the first auction—with an exception in the event a successful bidder's long-form application is not filed or granted, and subject to one contingency, discussed below. The Commission imposes payment obligations on bidders that withdraw provisionally winning bids during the course of an auction, on those that default on payments due after an auction closes, and on those that are disqualified. *See* 47 CFR 1.2110(f)(2)(i). To the extent such were to occur and a winning bidder were not awarded a license, the Commission proposed that the EA license at issue be deemed to have triggered a reimbursement obligation that will be paid to UTAM by the licensee acquiring the license at a re-auction. Further, the Commission proposed that winning bidders of H Block licenses in the first auction would not have a right to seek reimbursement from other H Block licensees including for licenses granted as a result of subsequent auctions. The Commission sought comment on these proposals, including on their associated costs and benefits.

161. In addition, the Commission sought comment on the relative costs and benefits of adopting its alternative population based cost-sharing formula as the general rule for the H Block. The Commission acknowledged that using a population based approach in all events would offer bidders greater certainty as to the obligation attached to each license, but would decrease the likelihood that UTAM would be fully compensated for clearing the band after the initial auction.

162. Regardless of which basis the Commission adopts for its cost-sharing formula, the Commission proposed a contingency that would be triggered in the unlikely event that licenses cover less than forty percent of the population of the United States won in the first auction. In such a scenario the population would be measured using 2010 Census data, which is the most recent decennial census data. The

Commission proposed that, in such an event, winning bidders—in the first auction, as well as in subsequent auctions—would be required to timely pay UTAM and Sprint, respectively, their *pro rata* share calculated by dividing the population of the individual EA granted as a result of auction by the total U.S. population and then multiplying this quotient by $12,629,857 for UTAM and by $94,875,516 for Sprint. This contingency would ensure that UTAM and Sprint are reimbursed as soon as possible while also protecting H Block winning bidders from bearing an undue burden of the reimbursement obligations due to UTAM and to Sprint.

163. The Commission also sought comment, including on the costs and benefits, on the appropriate sunset date for the reimbursement obligation for the Upper H Block. Specifically, the Commission proposed a sunset date for cost-sharing obligations of Upper H Block licensees to Sprint of ''ten years after the first [AWS Upper] H Block license is issued in the band.'' The Commission reasoned, in part, that because bidders can internalize their reimbursement costs into their bids for H Block licenses, and because winning bidders are the ultimate beneficiaries of the band clearing, this sunset date does not impose undue burdens on the H Block winning bidders.

164. Finally, the Commission proposed that winning bidders must pay UTAM and Sprint, respectively, the amount owed, as calculated pursuant to the formula ultimately adopted by the Commission, within thirty days of grant of their long-form license applications. The Commission sought comment on this proposal, including on its associated costs and benefits.

165. *The Record.* Commenters generally supported the adoption of reimbursement formulas that apportion the relocation costs attributable to the Lower H Block and attributable to the Upper H Block, respectively, on a *pro rata* basis among H Block licensees. Commenters were mixed on whether we should adopt a cost-sharing formula that is based on gross winning bids or population. For example, C Spire and MetroPCS argued that a population based formula provide bidders with greater certainty as to their reimbursement obligations. CCA and Sprint opposed a population based formula, arguing that it could delay final reimbursement for UTAM and Sprint in the event that all geographic areas are not licensed in the initial auction. Commenters supported the Commission's proposal to require prompt payment of cost-sharing reimbursement obligations. Sprint, moreover, proposed that the Commission take the additional step of not issuing the actual licenses until reimbursement payments are made. Finally, Sprint is the only party that commented on the proposed sunset date for the Upper H Block cost-sharing requirements, arguing in support of the Commission's proposal.

166. We adopt the cost-sharing proposals and formulas made by the Commission in the *H Block NPRM* both for the Lower H Block and for the Upper H Block. We conclude, given the record before us and Commission precedent, that this approach is in the public interest and that the benefits of this approach likely outweigh any potential costs. First, as detailed above, the Commission has long established that cost-sharing obligations for both the Lower H Block and the Upper H Block should be apportioned on a *pro rata* basis against the relocation costs attributable to the particular band. Consistent with the record before us, we follow that precedent here.

167. Second, we adopt cost-sharing formulas based on gross winning bids, rather than on license area populations. Such an approach will enable both UTAM and Sprint, who cleared the respective bands years ago, to receive full reimbursement after the first auction, as it results in apportioning the reimbursement associated with any unsold H Block licenses among the winning bidders in the first auction. We also adopt the Commission's proposal in the *H Block NPRM,* which was supported by the only commenter that addressed it, Sprint, that winning bidders in the first auction may not seek reimbursement from other H Block licensees, including for licenses granted as a result of subsequent auctions. As we explained in the *H Block NPRM* and Sprint echoed in its comments, this approach is fair and will minimize record keeping burdens and the likelihood of disputes between parties. A gross winning bids approach is also superior to a population approach because it better reflects the market value associated with each license at the time of the auction. For example, some license areas, such as the Gulf of Mexico, may have a relative value that is not directly tied to population. In such a case, a population-based formula may not fairly apportion relocation costs among the winning bidders. In response to concerns that a gross winning bids approach can lead to greater uncertainty if fewer licenses are sold, however, we adopt the contingency proposed in the *H Block NPRM*—if licenses won in the first auction cover less than forty percent of the population of the United States, then the cost-sharing formula will be based on population in the first auction, as well as in subsequent actions. In such a scenario the population would be measured using 2010 Census data, which is the most recent decennial census data.

168. Third, to avoid confusion, we reiterate the Commission's earlier findings that Sprint may not receive reimbursement for the same costs both from AWS entrants into the Upper H Block and from the 800 MHz true-up. For example, in the *2010 BAS Order,* the Commission:

> adopt[ed] a policy affirming . . . that Sprint [ ] may not both receive credits in the 800 MHz true-up and receive reimbursement from the . . . AWS entrants for the same costs. This has been the rule since the cost sharing requirements were adopted in the *800 MHz R&O,* and is necessary; to prevent Sprint [ ] from receiving an unjustified windfall, and no party has objected to this conclusion.

169. Fourth, we adopt the Commission's proposal to require winning bidders to pay UTAM and Sprint, respectively, the amounts owed within thirty days of the grant of the winning bidders' long-form license applications. For PCS, AWS–1, and AWS–4 licensees, cost-sharing obligations are triggered when a licensee proposes to operate a base station in an area cleared of incumbents by another licensee. In this case, however, for the Lower H Block, UTAM's members received no benefit for clearing the spectrum nationwide over ten years ago, and the Commission determined in 2003 that the new PCS/AWS licensees entering the band would reap the benefits of UTAM's efforts and that UTAM should be fully reimbursed. Similarly, for the Upper H Block, rather than Sprint itself benefiting from its clearing efforts (except if Sprint is the winning bidder), other entrants in the band will reap the benefits of Sprint's clearing efforts. Consequently, we find it appropriate to set the deadline for H Block winning bidders to reimburse UTAM and Sprint, respectively, at thirty days after the grant of long-form license applications.

170. This prompt payment requirement protects the integrity of the Commission's *Emerging Technologies* band clearing and cost-sharing policies, including demonstrating fairness to UTAM and Sprint, both of whom will receive reimbursement years after clearing the band to the benefit of others. We believe that the benefit of process integrity along with the benefit of prompt payment to UTAM and to Sprint significantly outweighs any potential costs to winning bidders

resulting from their pay their reimbursements promptly (*i.e.,* within thirty days of the grant of their long-form applications). All parties who commented on this issue supported the proposed prompt payment requirement. Further, we believe that our requirement that AWS winning bidders must pay their cost-sharing obligation within thirty days is consistent with the general approach to payment timing for cost-sharing that the Commission has applied to AWS spectrum, and is consistent with the *2010 BAS Order's* approach to payment timing in the Upper H Block in particular. There, at a time when the total costs for clearing the Upper H Block were not yet known, the Commission required AWS entrants in that spectrum band to make payment within thirty days of receiving documentation of Sprint's ultimate clearing costs. Now, these costs are known for both the Lower H Block and the Upper H Block, and have been for some time. Thus, we find it appropriate to start the thirty-day reimbursement clock from the date on which the AWS entrants cost-sharing obligations inure—*i.e.,* upon final grant of the long-form application for each of their licenses.

171. Fifth, we decline to adopt Sprint's proposal that, in addition to the thirty-day prompt payment requirement, the Commission should not issue Upper H Block licenses until payment has been made. We decline to adopt this proposal because it is inconsistent with the Commission's findings on this issue in the *2010 BAS Order.* There, the Commission expressly declined to adopt policies or procedures in the event that a party fails to pay its cost-sharing reimbursements. Instead, the Commission determined to ''address complaints regarding failure to make requirement payments . . . through our existing enforcement mechanisms.'' Sprint has provided no rationale for why we should reverse this determination now, and we decline to do so.

172. Because we are requiring winning bidders to pay Sprint within thirty days of grant of their long form applications, we expect that Upper H Block licensees will reimburse Sprint well before any sunset date. However, if licenses covering less than forty percent of the population of the United States are granted as a result of the first auction, licensees in subsequent auctions will incur an obligation to reimburse Sprint at a later date, which could make the sunset date relevant. Therefore, we will adopt the Commission's proposal to set a sunset date for the cost-sharing obligations of Upper H Block licensees to Sprint of ten (10) years after the first Upper H Block licenses is issued. This approach is consistent with the record. It is also consistent with the Commission's general *Emerging Technologies* precedent, where relocation and cost-sharing obligations generally sunset ten years after the first emerging technologies licenses is issued in the relevant band. In addition, setting ten-year sunset date should not impose a significant burden on H Block winning bidders because the H Block licenses have not yet been assigned and because interested applicants will be able to factor their reimbursement obligations to Sprint into their bids.

E. Regulatory Issues; Licensing and Operating Rules

173. The regulatory framework we adopt below establishes the license term, criteria for renewal, and other licensing and operating rules that will govern operations in the H Block. In the *H Block NPRM,* the Commission proposed generally to apply to the H Block the Commission's market-oriented part 27 rules, including, in particular, the Commission's part 27 rules applicable to other AWS bands, and the Commission's wireless rules that are generally applicable across multiple commercial bands. As detailed below, we adopt the proposals contained in the *H Block NPRM* on these matters except where otherwise indicated.

1. Regulatory Status

174. *Background.* In the *H Block NPRM,* the Commission proposed to apply the regulatory status provisions of section 27.10 of the Commission's rules to H Block licensees. The Commission's current service license application requires applicants for and licensees of fixed or mobile services to identify the regulatory status of the services they intend to provide because service offerings may bear on other statutory and regulatory requirements. Specifically, Section 27.10 permits applicants and licensees to request common carrier status, non-common carrier status, private internal communications status, or a combination of these options, for authorization in a single license (or to switch between them). Part 27 applicants therefore may, but are not required to, choose between providing common carrier and non-common carrier services. Thus, licensees would be able to provide all allowable services anywhere within their licensed areas, consistent with their regulatory status. Apart from this designation of regulatory status, the Commission did not propose to require applicants to describe the services they seek to provide. Finally, the Commission proposed that, if a licensee changes the service or services it offers such that its regulatory status would change, the licensee would be required to notify the Commission. A change in a licensee's regulatory status would not require prior Commission authorization, provided the licensee was in compliance with the foreign ownership requirements of section 310(b) of the Communications Act that would apply as a result of the change consistent with the Commission's rules for AWS–1 spectrum. The Commission sought comment on this regulatory status proposal, including the associated costs and benefits. Only one commenter, CCA, directly addressed the Commission's proposal, requesting that licensees be permitted to ''to provide all allowable services throughout their licensed area,'' while not being required to specify their regulatory status.

175. We adopt the Commission's proposal to apply section 27.10 of our rules to the H Block. Under this flexible regulatory approach, H Block licensees may provide common carrier, non-common carrier, private internal communications or any combination of these services, so long as the provision of service otherwise complies with applicable service rules. We find that this broad licensing framework is likely to achieve efficiencies in the licensing and administrative process and will provide flexibility to the marketplace, thus encouraging licensees to develop new and innovative services. Thus, based on the record before us, we conclude that this approach is in the public interest and that its benefits likely outweigh any potential costs.

176. We therefore require H Block applicants and licensees to identify the regulatory status of the services or services they intend to provide. Applicants and licensees are not required to describe their particular services in detail, but only to designate the regulatory status of the services. We remind potential applicants that an election to provide service on a common carrier basis typically requires that the elements of common carriage be present; otherwise, applicants must choose non-common carrier status. If potential applicants are unsure of the nature of their services and their classification as common carrier services, they may submit a petition with their applications, or at any time, requesting clarification and including service descriptions for that purpose.

177. The only commenter that directly addressed the Commission's proposal, CCA, stated that ''H Block licensees

should not be required to choose between providing common carrier and non-common carrier services'' and that they should not ''be required to describe the services they intend to provide prior to obtaining a license.'' According to CCA, the FCC should adopt a rule that permits H Block licensees ''to provide all allowable services throughout their licensed area at any time, consistent with their regulatory status.'' To the extent that CCA is asking that H Block licensees be able to provide all allowable services and be permitted to request common carrier status as well as non-common carrier status, these propositions are already embodied in the rule that we adopt. And to the extent that CCA is asking that H Block licensees not be required to describe the services they seek to provide beyond designating their regulatory status, that proposition is also already embodied in the rule that we adopt. To the extent, however, that CCA is arguing that H Block licensees should not be required to designate their regulatory status, we must disagree. This requirement applies to all part 27 services and licensees. By requiring part 27 licensees to designate their regulatory status, the Commission is able to determine whether licensees are subject to Title II and governed by common carrier requirements. Applying this requirement to H Block licensees results in the same regulatory treatment for such licensees as exists for other part 27 licensees, as this rule generally applies to all part 27 licensees.

178. Finally, consistent with the application of this rule for other bands and with the Commission's proposal in the *H Block NPRM,* we determine that, if a licensee elects to change the service or services it offers such that its regulatory status would change, it must notify the Commission within thirty days of making the change. A change in the licensee's regulatory status will not require prior Commission authorization, provided the licensee is in compliance with the foreign ownership requirements of section 310(b) of the Communications Act that apply as a result of the change. We note, however, that a different time period (other than thirty days) may apply, as determined by the Commission, where the change results in the discontinuance, reduction, or impairment of the existing service.

2. Ownership Restrictions

a. Foreign Ownership Restrictions

179. In the *H Block NPRM,* the Commission observed that sections 310(a) and 310(b) of the Communications Act impose foreign ownership and citizenship requirements that restrict the issuance of licenses to certain applicants. The Commission proposed to apply Section 27.12 of the Commission's rules, which implements section 310, to applicants for licenses in the H Block. With respect to filing applications, the Commission proposed that all applicants provide the same foreign ownership information, which covers both sections 310(a) and 310(b), regardless of whether they propose to provide common carrier or non-common carrier service in the band. The Commission sought comment on this proposal, including the associated costs and benefits.

180. In order to fulfill our statutory obligations under section 310 of the Communications Act, we determine that all H Block applicants and licensees shall be subject to the provisions of section 27.12 of the Commission's rules. All such entities are subject to section 310(a), which prohibits licenses from being ''granted to or held by any foreign government or the representative thereof.'' In addition, any applicant or licensee that would provide a common carrier, aeronautical en route, or aeronautical fixed service would also be subject to the foreign ownership and citizenship requirements of section 310(b).

181. No commenters opposed (or commented on) the Commission's proposal to require all H Block applicants and licensees to provide the same foreign ownership information in their filings, regardless of the type of service the licensee would provide using its authorization. We believe that applicants for this band should not be subject to different obligations in reporting their foreign ownership based on the type of service authorization requested in the application and that the benefits of a uniform approach outweigh any potential costs. Therefore, we will require all H Block applicants and licensees to provide the same foreign ownership information, which covers both sections 310(a) and 310(b), regardless of which service they propose to provide in the band. We expect, however, that we would be unlikely to deny a license to an applicant requesting to provide services exclusively that are not subject to section 310(b), solely because its foreign ownership would disqualify it from receiving a license if the applicant had applied for authority to provide section 310(b) services. However, if any such licensee later desires to provide any services that are subject to the restrictions in section 310(b), we would require that licensee to apply to the Commission for an amended license, and we would consider issues related to foreign ownership at that time.

b. Eligibility

182. In the *H Block NPRM,* the Commission proposed to adopt an open eligibility standard for the H Block. The Commission explained that opening the H Block to as wide a range of licensees as possible would encourage efforts to develop new technologies, products, and services, while helping to ensure efficient use of this spectrum.

183. Additionally, the Commission explained that Section 6004 of the Spectrum Act does not address eligibility to acquire licenses through transfers, assignments, or other secondary market mechanisms from the initial or subsequence licensee. Section 6004 prohibits a person from participating in an auction if they ''ha[ve] been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant.'' The Commission sought comment on whether this provision permits or requires the Commission to restrict eligibility of persons acquiring licenses on the secondary market, whether and to what extent such a restriction is consistent with other provisions of the Communications Act, and what procedures and rules, if any, should apply to persons acquiring licenses on the secondary market. We also asked how to attribute ownership under this provision for applicants that are not individuals.

184. No commenters addressed whether and how Section 6004 applies to secondary market transactions. However, one commenter, AT&T, addressed the larger issue of the open eligibility proposal by commenting that it supports such an approach.

185. We find that nothing in the record demonstrates that we should adopt restrictions on open eligibility. Therefore, we find that open eligibility for the H Block is consistent with our statutory mandate to promote the development and rapid deployment of new technologies, products, and services; economic opportunity and competition; and the efficient and intensive use of the electromagnetic spectrum. We conclude, based on the record before us, that the potential benefits of open eligibility for the H Block outweigh any potential costs.

186. On the issue of whether Section 6004 of the Spectrum Act applies to transfers, assignments, or other secondary market mechanisms, which no commenter addressed, we determine that this section does indeed apply to

such transactions. The Commission generally does not allow parties to avoid statutory or regulatory requirements through use of secondary markets. We conclude that it is reasonable to assume that Congress did not intend to permit persons barred on national security grounds from ''participating in an auction'' for certain licenses to acquire those same licenses in such an indirect fashion. In any event, given the policies reflected in section 6004, we conclude that it is appropriate to exercise our independent authority under section 308(b) of the Communications Act to extend such a national security bar to the acquisition of Commission licenses through the secondary market. Further, we determine that applicants requesting approval for a secondary market transaction must certify that the applicants are not persons barred from participating in an auction by section 6004 of the Spectrum Act. Until we have revised appropriate applications forms to add a certification, we will require applicants for spectrum subject to section 6004 to include a certification as an attachment to the application. For applicants that are not individuals, we will apply the same attribution standard that we are adopting for short-form applications.

3. Mobile Spectrum Holding Policies

187. Access to spectrum is a critical and necessary input for the provision of mobile wireless services, and ensuring the availability of sufficient spectrum is crucial to promoting the competition that drives innovation and investment. Section 309(j)(3)(B) of the Communications Act provides that, in designing systems of competitive bidding, the Commission shall ''promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses.'' Section 6404 of the Spectrum Act recognizes the Commission's authority ''to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.'' In September 2012, the Commission initiated a proceeding to review the mobile spectrum holdings policies that currently apply to both transactions and competitive bidding. The Commission indicated that, during the pendency of this proceeding, the Commission will continue to apply its current case-by-case approach to evaluate mobile spectrum holdings during its consideration of secondary market transactions and initial spectrum licensing after auctions.

188. In the *H Block NPRM,* the Commission sought comment on whether and how to address any mobile spectrum holdings issues in the H Block, consistent with any statutory requirements and our goals for this spectrum. The Commission also sought comment on whether the acquisition of H Block spectrum should be subject to the same general mobile spectrum holding policies that apply to frequency bands that are available and suitable for wireless services. Conversely, the Commission sought comment on whether to distinguish H Block spectrum from other bands for purposes of evaluating mobile spectrum holdings. The Commission asked that commenters discuss and quantify any costs and benefits associated with the proposals that they put forth.

189. We received a limited number of comments on these issues. A few commenters argued that the Commission should take concrete steps to prevent large carriers from acquiring H Block spectrum, including adopting a bright line spectrum aggregation limit before any H Block auction, while one commenter argued that such an approach would not serve the public interest. With respect to appropriate timing of such determinations, a few commenters argued that the Commission should complete the *Mobile Spectrum Holdings Policies* proceeding before applying any revised spectrum holdings policies to H Block licensing.

190. We find that the limited record on mobile spectrum holdings policies in this proceeding does not support addressing here the issue of whether the acquisition of H Block spectrum should be subject to the mobile spectrum holding policies that apply to frequency bands that are available and suitable for wireless services, particularly given the pendency of the *Mobile Spectrum Holdings Policies* proceeding. We observe that parties commenting on spectrum holdings issues in the H Block rulemaking generally raise issues with broader applicability to the Mobile Spectrum Holdings rulemaking, rather than issues related to the characteristics of the H Block.

4. License Term, Performance Requirements, Renewal Criteria, Permanent Discontinuance of Operations

a. License Term

191. In the *H Block NPRM,* the Commission proposed a license term for H Block spectrum rights of ten years. The Communications Act does not require a specific term for spectrum licenses, and the Commission has adopted ten-year terms for many wireless radio services. In addition, the Commission proposed that, if an H Block license is partitioned or disaggregated, any partitionee or disaggregatee would be authorized to hold its license for the remainder of the partitioner's or disaggregator's original license term. The Commission sought comment on these proposals, including the associated costs and benefits, and several commenters responded that they approved of the proposed license terms.

192. We adopt a license term for H Block spectrum rights of ten years and subsequent renewal terms of ten years and we modify section 27.13 of the Commission's rules to reflect these determinations. Given the record before us, we find that this approach is in the public interest and find that its benefits outweigh any potential costs. C Spire, T-Mobile, and U.S. Cellular expressed support for ten-year license terms, and no commenter opposed license terms of that length. C Spire stated that a ten-year license term would be ''appropriate because it would provide consistency with other spectrum blocks and afford each licensee more than enough time to design, acquire the necessary equipment and devices, and deploy facilities across nearly all of the licensed area.'' U.S. Cellular and T-Mobile also pointed out that by imposing a ten-year license term, the Commission would be treating H Block the same way it treats many wireless services. We agree that our decision to license H Block in ten-year terms is consistent with most other part 27 services and with services using similar spectrum, such as the PCS spectrum that is adjacent to the H Block.

193. In addition, we adopt the Commission's proposal that, if an H Block license is partitioned or disaggregated, any partitionee or disaggregatee would be authorized to hold its license for the remainder of the partitioner's or disaggregator's original license term. No commenter addressed this proposal. We note, however, that this proposal is similar to the partitioning and disaggregation provisions that the Commission adopted for BRS, broadband PCS, 700 MHz, AWS–1, and AWS–4. We emphasize that nothing in this action is intended to enable a licensee, by partitioning or disaggregation, to be able to confer greater rights than it was awarded under the terms of its license grant; nor would any partitionee or disaggregatee obtain rights in excess of those previously possessed by the underlying Commission licensee.

b. Performance Requirements

194. The Commission establishes performance requirements to maximize the productive use of spectrum, to encourage licensees to rapidly provide service to customers, and to promote the provision of innovative services in all license areas, including rural areas. We continue to believe that performance requirements play a critical role in ensuring that licensed spectrum does not lie fallow. We therefore adopt performance requirements that will ensure the rapid deployment of wireless service in the H Block, while giving licensees sufficient flexibility to deploy services according to their business plans. Specifically, we adopt the following buildout requirements:

- *H Block Interim Buildout Requirement:* Within four (4) years, a licensee shall provide reliable signal coverage and offer service to at least forty (40) percent of the population in each of its license areas.
- *H Block Final Buildout Requirement:* Within ten (10) years, a licensee shall provide reliable signal coverage and offer service to at least seventy-five (75) percent of the population in each of its license areas.

In addition, we adopt the following penalties for failure to meet the buildout benchmarks:

- *Failure to Meet H Block Interim Buildout Requirement:* Where a licensee fails to meet the H Block Interim Buildout Requirement in its license area, the H Block license term and the Final Buildout Requirement shall be accelerated by two years (for both the license term and final requirement, from ten to eight years).
- *Failure to Meet H Block Final Buildout Requirement:* Where a licensee fails to meet the H Block Final Buildout Requirement in any EA, its authorization for each EA in which it fails to meet the requirement shall terminate automatically without Commission action.

195. We find, based on the record before us, that these performance requirements are in the public interest and that the benefits of these requirements outweigh any potential costs. We explain the rationale for these performance requirements below.

196. *Background.* In the *H Block NPRM,* the Commission proposed that, as an interim buildout requirement, a licensee must, within four years, provide signal coverage and service to at least forty percent of its total license-area population. The Commission proposed that, as a final buildout requirement, a licensee must, within ten years, provide signal coverage and offer service to at least seventy percent of the population in each license area it holds. For both the interim and final milestones, the Commission proposed EA-based requirements. The Commission explained that a four-year interim benchmark would ensure that licensees deploy facilities quickly, while a relatively low population threshold of forty percent acknowledges that large-scale network deployment may ramp up as equipment becomes available and a customer base is established. The Commission also explained that a ten-year final benchmark allows a reasonable amount of time for any H Block licensee to attain nationwide scale. The Commission sought comment on these proposed buildout requirements, including on whether the proposals struck the appropriate balance between being so low as to not result in meaningful buildout and being so high as to be unattainable. The Commission also sought comment on whether other benchmarks represent more appropriate requirements, asking that commenters discuss and quantify any costs and benefits associated with different proposals.

197. The Commission proposed specific consequences, or penalties, in the event a licensee fails to satisfy its buildout requirements. The Commission proposed that, if a licensee fails to meet the interim benchmark in its license area, the term of the license would be reduced by two years. And the Commission proposed that, if a licensee fails to meet the final benchmark, the H Block license for each license area in which it fails to meet the buildout requirement would automatically terminate without Commission action.

198. Commenters generally supported the Commission's proposals, but some had specific recommendations for modifying them. Several commenters supported the proposed forty percent interim buildout requirement, while others proposed a slightly less stringent benchmark or opposed any interim benchmark at all. Commenters generally supported the proposed seventy percent final buildout requirement, with individual commenters proposing a slightly more or less stringent benchmark. However, commenters generally opposed the proposed penalties for failure to satisfy the interim and final buildout requirements.

(i) Benchmarks

199. Consistent with the Commission's approach to performance benchmarks in other bands—including the AWS–4 band, the 2.3 GHz WCS band, and the Upper 700 MHz C-Block—we adopt objective interim and final buildout benchmarks. Requiring H Block licensees to meet our performance requirements—providing reliable coverage and service to at least forty percent of the population in each license area in four years and at least seventy-five percent of the population in each license area in ten years—will further the public interest by ensuring that spectrum will be put to use and by promoting the rapid deployment of new broadband services to the American public. It will also provide licensees with certainty regarding their construction obligations. These performance requirements are reasonable, both temporally and quantitatively, and will enable the Commission to take appropriate corrective action should the required deployment fail to occur. Further, we observe that commenters generally agreed with the proposed performance requirements, albeit with some of those commenters seeking slight modifications.

200. *EA-Based and Population-Based Benchmarks.* As discussed above, we are adopting an EA-based H Block band plan requirement and not a nationwide band plan. Setting buildout benchmarks on an EA basis is consistent with our general approach of assigning H Block spectrum rights under the Commission's part 27 rules, which includes permitting any licensee to avail itself of the Commission's secondary market mechanisms. Additionally, we will measure interim and final buildout benchmarks using percentages of license area population because using a population-based measure is more consistent with the Commission's practice in other similar bands.

201. We reject the arguments of some commenters that the benchmarks should instead be measured geographically. While we agree that it is important to ensure service is provided in rural areas, we believe that population-based benchmarks are necessary to ensure that H Block licensees have flexibility to scale their networks in a cost efficient manner while they are attempting to meet performance requirements. Specifically, because of the substantial capital investment and logistical challenges associated with a licensee building out a network, we believe that measuring benchmarks within an EA according to population is more appropriate. We also agree with MetroPCS that population served is a more accurate measure of useful coverage for this band. Finally, while we are adopting population-based benchmarks for the H Block, nothing in this decision forecloses the

consideration of geographic-based benchmarks in other bands, particularly if such bands have different technical characteristics or service rules based on factors specific to those bands.

202. *Interim Benchmark.* We find, consistent with the record, that a four-year construction milestone provides a reasonable time frame for a licensee to deploy its network and offer widespread service. Indeed, no party suggested that a longer time frame would be necessary. We also find that requiring forty percent buildout at this interim milestone would serve the public interest. Commenters were generally supportive of this requirement, and it is consistent with the interim benchmark for all licensees in the AWS–4 band and for licensees in the 700 MHz band that are subject to a population-based benchmark. It is also similar to the Commission's interim benchmark in the 2.3 GHz band, where mobile and point-to-multipoint licensees had 3.5 years to provide reliable coverage to forty percent of the population of each license area. Thus, based on our review of the record and Commission precedent, we adopt an interim performance benchmark of forty percent buildout at the four-year milestone.

203. We are not persuaded by MetroPCS's argument that interim benchmarks are unrealistic and counterproductive, and that licensees have sufficient financial incentives to build out quickly without these benchmarks. We find that the performance requirements we adopt in the H Block will provide licensees with an ability to scale networks in a cost efficient manner while also ensuring that the vast majority of the population will have access to wireless broadband services by the final benchmark. And while we recognize that licensees in many cases have economic incentives to build out, we believe that objective performance requirements are an important means of ensuring that there is meaningful deployment of broadband services in the H Block in the near future, consistent with our obligations to adopt rules and license spectrum in the public interest.

204. We disagree with U.S. Cellular and C Spire that thirty-five percent of total population is a more appropriate benchmark, and we disagree with Sprint that in cases where a licensee acquires multiple EA licenses, the benchmark should be thirty-five percent of the total population covered by all EA licenses. While we believe that forty percent and thirty-five percent are both realistic interim buildout requirements, we find that a forty percent benchmark will better ensure that underutilized spectrum is quickly utilized for the benefit of consumers in the public interest. U.S. Cellular claims that a thirty-five percent benchmark is more consistent with the Commission's treatment of the 700 MHz band; however, the thirty-five percent interim benchmark in the 700 MHz band only applied geographic-based, not population-based, benchmarks for the 700 MHz A and B blocks. In contrast, 700 MHz C Block, which is subject to population-based benchmarks, had an interim benchmark of 40 percent. Because all H Block licensees will be subject to a population-based benchmark, not a geographic-based benchmark, the example of the 700 MHz band actually suggests that we should adopt a forty-percent interim buildout requirement. Finally, we decline to adopt Sprint's proposal, which would allow a licensee with multiple EA licenses to meet the interim benchmark while underutilizing some of those EAs for no other reason than the fact that it acquired more than one EA. Where, as here, we are assigning initial licenses for spectrum, we expect applicants will file for spectrum licenses only in areas in which they intend to put the spectrum to use.

205. *Final Benchmark.* We find, consistent with the record, that a final ten-year construction milestone provides a reasonable time frame for a licensee to deploy its network and offer widespread service. We note that none of the commenters suggested that a different time frame would be necessary for the final benchmark. However, in response to the record, we modify the proposed final buildout requirement in terms of the percentage of population that must be served. While several commenters supported the proposed seventy percent final buildout requirement, AT&T proposed that the buildout requirement be seventy-five percent of total population of each EA by the end of the license term. It stated that the Upper 700 MHz C Block buildout requirements should be the default buildout standard, arguing that a default standard would ''reduce uncertainty for potential licensees and streamline its own regulatory process, expediting deployment and service to the public.'' It also pointed out that a seventy-five percent benchmark would ''ensure a rapid deployment of mobile broadband services while affording licensees adequate flexibility to deploy service.''

206. While we decline to adopt a standard buildout requirement for all bands in this proceeding, we agree that the final benchmark should be set at seventy-five percent, rather than seventy percent. In our view, a final benchmark of seventy-five percent is more closely aligned with final benchmarks in other similar bands, including 700 MHz and AWS–4. Specifically, for the 700 MHz C Block, the Commission adopted a ten year performance benchmark and a seventy-five percent buildout requirement. Applying a seventy-five percent buildout requirement here, where we similarly have a ten-year time period, treats H Block licensees in a similar manner as 700 MHz licensees. Our decision is also consistent with last year's *AWS–4 Report and Order,* in which the Commission adopted a lower benchmark level of seventy percent, along with a shorter time frame of seven years.

(ii) Agreements Between H Block and AWS–4 Licensees

207. The Commission also sought comment on whether performance requirements should be relaxed if an AWS–4 licensee reaches private operator-to-operator agreements with all 1995–2000 MHz licensees so that AWS–4 operations above 2000 MHz may operate with a more relaxed OOBE limit than $70 + 10 \log_{10}(P)$ dB into the 1995–2000 MHz band. The Commission received no comments on this issue, and accordingly, we decline to adopt an alternative performance requirement that would apply if an AWS–4 operator entered into such agreements. Should that situation arise, parties may petition the Commission for any necessary relief at that time.

(iii) Penalties for Failure To Meet Construction Requirements

208. We adopt the *H Block NPRM* proposed penalties for failure to meet the interim and final benchmarks. These penalties will provide meaningful and enforceable consequences and are necessary to ensure that licensees utilize the spectrum in the public interest. Further, we find these penalties appropriate to ensure that the buildout requirements fulfill their purpose of bringing about timely deployment without being unnecessarily strict.

209. *Penalties for Failure to Meet the Interim Benchmark.* We adopt the proposal in the *H Block NPRM* that, if a licensee fails to meet the H Block Interim Buildout Requirement in any EA, the term of the license shall be reduced by two years. If this interim penalty is triggered, the license term will be eight years instead of ten years, and therefore the licensee will be required to meet the end-of-term benchmark on an accelerated eight-year schedule, as well. We acknowledge that in the *H Block NPRM* that the main text

of the *NPRM* did not match the text of the proposed rule. *H Block NPRM,* 27 FCC Rcd at 16289 para. 81, 16303 App. A, § 27.14(q)(2). The main text of the *NPRM* stated that the final buildout requirement would need to be met ''[b]y the end of the license term,'' which would be ten years if the interim requirement was satisfied but only eight years if the interim requirement was not satisfied. *H Block NPRM,* 27 FCC Rcd at 16289 para. 81. The text of the proposed rules, however, stated that the final buildout requirement needed to be met within ten years of the grant of the license, thus suggesting that the interim penalty would result in a two-year reduction in the license term but not in the final performance benchmark. *H Block NPRM,* 27 FCC Rcd at 16303 App. A, § 27.14(q)(2). We therefore clarify that, in the event that a licensee fails to meet the interim benchmark, that *both* the term of the license and the term of the final performance benchmark will be reduced from ten years to eight years. U.S. Cellular, which was the only commenter to directly address the proposed interim buildout penalty, expressed support for a two-year license term reduction. Additionally, we believe that this penalty is sufficiently serious to promote rapid deployment of service to the H Block, while still giving licensees that fail to meet it an opportunity to meet the final benchmark and put their spectrum to use.

210. *Penalties for Failure to Meet the Final Benchmark.* We adopt the proposal in the *H Block NPRM* that, if a licensee fails to meet the H Block Final Buildout Requirement in any EA, the licensee's authority for each such area shall terminate automatically without Commission action. By only terminating specific licenses where a licensee fails to meet the final benchmark in a particular license area, a licensee's customers in other license areas would not be adversely affected. In doing so, we are adopting the final buildout penalty that the Commission proposed in the *H Block NPRM,* even though we are slightly modifying the final buildout requirement that the Commission had proposed. We see no persuasive reason that increasing the final buildout requirement from seventy percent to seventy-five percent of the population of a licensed area provides a basis for changing the penalty for failure to meet the final buildout benchmark.

211. AT&T and U.S. Cellular both opposed the proposed penalties. They argued that automatic termination is too punitive, would negatively affect investment and auction participation and revenues, and would harm the public. We disagree with these assertions. First, as a general matter, we expect that the probability is small of licensees not meeting the performance requirements because of the costs of meeting them. Further, we expect licensees will generally deploy in excess of the levels set in the buildout benchmarks and that these requirements generally represent a floor, not a ceiling, in a licensee's buildout. As for the assertion that automatic termination is too punitive, the Commission has explained in the past that we do not consider automatic termination to be overly punitive or unfair, particularly given that the Commission has applied this approach to nearly all geographically licensed wireless services. Further, the Commission has rejected the argument, and we do so again here, that an automatic termination penalty would deter capital investment, observing that the wireless industry has invested billions of dollars and has flourished under this paradigm in other spectrum bands. For the same reason, we believe that an automatic termination penalty will have little effect on auction participation. Finally, we do not agree that automatic termination would harm the public because, even if a customer loses service when a licensee loses its spectrum rights, we expect that a future licensee for that EA would ultimately serve more customers.

212. We are not persuaded by the AT&T and U.S. Cellular argument that the Commission should adopt a keep-what-you-use approach instead of an automatic termination penalty. AT&T maintained that keep-what-you-use rather than automatic termination is consistent with the requirements applicable to other comparable services; to support this assertion, it cited the rules that apply to the commercial licenses in 700 MHz. We observe, however, that the keep-what-you-use approach in 700 MHz is the exception rather than the rule and that the Commission adopted that approach for 700 MHz band spectrum, in part, in light of other specific service rule determinations for that band, including the specific geographic license areas used for parts of that band (*e.g.,* CMAs for the 700 MHz B Block). The Commission generally applies automatic termination as the remedy for failure to build out part 27 licenses. Indeed, the Commission has characterized automatic license termination as ''a common remedy for failure to build part 27 flexible use licenses.'' We believe that an automatic termination approach for the H Block will promote prompt buildout and will appropriately penalize a licensee for not meeting its performance obligations in a particular EA. We therefore decline to adopt a keep-what-you-use approach.

213. We further adopt the *H Block NPRM*'s proposal that, if a license terminates, the spectrum would become available for assignment under the competitive bidding provisions of section 309(j) of our rules. We also adopt the Commission's proposal that any H Block licensee that forfeits its H Block operating authority for failure to meet the H Block Final Buildout Requirement shall be precluded from regaining that license. These rules are consistent with the Commission's rules for other spectrum bands, such as AWS–1, AWS–4, and the Broadband Radio Service.

(iv) Compliance Procedures

214. We adopt the proposal in the *H Block NPRM* to apply to the H Block rule section 1.946(d) of our rules, which requires that licensees demonstrate compliance with the new performance requirements by filing a construction notification within fifteen days of the relevant milestone certifying that they have met the applicable performance benchmark. Additionally, we adopt the proposal in the *H Block NPRM* to require that each construction notification include electronic coverage maps and supporting documentation, which must be truthful and accurate and must not omit material information that is necessary for the Commission to determine compliance with its performance requirements.

215. We emphasize that electronic coverage maps must accurately depict the boundaries of each license area in the licensee's service territory. If a licensee does not provide reliable signal coverage to an entire EA, its map must accurately depict the boundaries of the area or areas within each EA not being served. Each licensee also must file supporting documentation certifying the type of service it is providing for each EA within its service territory and the type of technology used to provide such service. Supporting documentation must include the assumptions used to create the coverage maps, including the propagation model and the signal strength necessary to provide reliable service with the licensee's technology.

216. The licensee must use the most recently available decennial U.S. Census Data at the time of measurement to meet the population-based buildout requirements. Specifically, the licensee must base its claims of population served on areas no larger than the Census Tract level.

c. Renewal Criteria

217. As the Commission explained in the *H Block NPRM,* section 308(b) of the Communications Act recognizes the Commission's authority to require renewal applicants to ''set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station'' as well as ''such other information as it may require.'' The Commission proposed to adopt H Block license renewal requirements that are consistent with those adopted in the *700 MHz First Report and Order* and the *AWS–4 Report and Order.*

218. The Commission proposed that applicants for renewal of H Block licenses file a ''renewal showing,'' in which they demonstrate that they have been and are continuing to provide service to the public, and are compliant with the Communications Act and with the Commission's rules and policies. The Commission proposed that the same factors that were applied in the *AWS–4 Report and Order* and the *700 MHz First Report and Order,* be used when the Commission evaluates renewal showings for the H Block. Specifically, the Commission proposed that a renewal showing for the H Block include: the level and quality of service, whether service was ever interrupted or discontinued, whether service has been provided to rural areas, the extent to which service is provided to qualifying Tribal lands, and any other factors associated with a licensee's level of service to the public.

219. The Commission also sought comment on whether the public interest would be served by awarding H Block licensees renewal expectancies if they maintained the level of service demonstrated at the ten-year performance benchmark through the end of their license term, provided that they have otherwise complied with the Communications Act and the Commission's rules and policies during their license term. The Commission sought comment on whether H Block licensees should obtain renewal expectancies for subsequent license terms, if they continue to provide at least the level of service demonstrated at the ten-year performance benchmark through the end of any subsequent license terms.

220. Finally, the Commission proposed that, consistent with the *AWS–4 Report and Order* and the *700 MHz First Report and Order,* we would not allow the filing of any competing applications to requests for license renewal, and that if a license is not renewed, the associated spectrum would be returned to the Commission for assignment.

221. The Commission sought comment on these proposals, including the associated costs and benefits. Comments were mixed regarding the primary proposal to impose renewal requirements consistent with those adopted in the *700 MHz First Report and Order* and the *AWS–4 Report and Order* with one commenter offering qualified support for the proposed renewal standard, and other commenters opposed to it.

222. Pursuant to section 308(b) of the Communications Act and consistent with the Commission's rules as they apply to other similar bands, we find that all H Block licensees seeking renewal of their authorizations at the end of their license term must file a renewal application, demonstrating that they have been and are continuing to provide service to the public over the license term (or, if consistent with the licensee's regulatory status, it used the spectrum for private, internal communication), and are otherwise complying with the Commission's rules and policies (including any applicable performance requirements) and with the Communications Act. In so finding, we emphasize, as the Commission has done repeatedly in recent years, that the concept of a renewal showing is distinct from a performance showing. A performance showing provides a snapshot in time of the level of a licensee's service, while a renewal showing provides information regarding the level and types of service provided over the entire license term. As the Commission has explained in setting rules for other bands, a licensee that meets the applicable performance requirements might nevertheless fail to meet the renewal requirements. Specifically, we adopt the following renewal criteria requirements. We require the renewal showing to include a detailed description of the renewal applicant's provision of service during the entire license period and discuss: (1) The level and quality of service provided by the applicant (*e.g.,* the population served, the area served, the number of subscribers, the services offered); (2) the date service commenced, whether service was ever interrupted, and the duration of any interruption or outage; (3) the extent to which service is provided to rural areas; (4) the extent to which service is provided to qualifying Tribal land as defined in section 1.2110(e)(3)(i) of the Commission's rules; and (5) any other factors associated with the level of service to the public. A licensee must also demonstrate at renewal that it has substantially complied with all applicable Commission rules and policies, and the Communications Act of 1934, as amended, including any applicable performance requirements. Based on the record before us and the analysis provided below, we find these requirements to be in the public interest and that their benefits outweigh any likely costs.

223. In addition, as the Commission did in the *700 MHz First Report and Order* and the *AWS–4 Report and Order,* we will not permit the filing of competing applications against a licensee's renewal application. If a license is not renewed, the associated spectrum will be returned to the Commission and then made available for assignment. We agree with Sprint—which offered support for the proposed renewal standard—that the proposed standard is consistent with Commission precedent.

224. We are not persuaded by commenters who opposed the proposed renewal standard. For example, MetroPCS and T-Mobile argued that the FCC should refrain from imposing the proposed renewal standard on H Block licensees, claiming that the proposed standard is vague. Additionally, MetroPCS argued that the proposed standard will undermine the renewal expectancy that allows licensees to secure long-term financing. We disagree. Instead, we believe that the renewal standard provides sufficient certainty. For example, the renewal standard we adopt today is based on that used for 700 MHz commercial licensees. We are unaware of any significant effect on the ability of 700 MHz applicants or licensees to obtain financing resulting from the use of this renewal standard in the 700 MHz proceeding.

225. T-Mobile also pointed out that the same renewal standard is under consideration in the pending WRS Renewals proceeding, and therefore argued that the Commission should more broadly address it there. We agree with T-Mobile that the WRS Renewals proceeding offers the Commission an opportunity to comprehensively consider whether it should adopt a renewal standard that generally applies to all bands, and if so, what that standard should be. However, contrary to T-Mobile's suggestion that we are departing from a generic renewal standard by ''uniquely'' applying the proposed renewal standard to the H Block, the Commission has thus far declined to adopt generic criteria for renewal showings. Moreover, at least two spectrum bands, 700 MHz and AWS–4, have renewal criteria identical

or almost identical to those we adopt for the H Block. Unless we make a determination in this proceeding about the renewal standard for H Block, our service rules for this band would include no clear, codified criteria for license renewal and new licensees would be faced with this uncertainty. We also decline to delay adoption of the *H Block Report and Order* until the WRS Renewals proceeding is resolved, because we find that the benefits of adopting the H Block rules now far outweigh the costs of not doing so. As we explained above, completing the H Block proceeding in the near term has several benefits, including unleashing more spectrum to address the surging demand for mobile broadband services and implementing an important directive that Congress entrusted to the Commission. While our determination here should not be construed to prejudge the issues and arguments presented by the parties to the WRS Renewals proceeding, we observe that our action here is consistent with our proposal in that docket.

226. Finally, we decline to adopt U.S. Cellular's proposal that the Commission categorically provide licensees that satisfy the performance requirements with renewal expectancies. In the ordinary course, we expect that licensees that meet their interim benchmark and maintain that level of service while increasing service levels towards compliance with the end-of-term benchmark will likely be able to demonstrate that they satisfy the renewal criteria delineated above. However, we decline to adopt the rule U.S. Cellular proposes that equates mere compliance with the performance benchmarks with a renewal justification because, as the Commission has explained and as we reiterated above, performance requirements and renewal showings are two distinct requirements that involve different showings, serve different purposes, and have different remedies. We decline to state categorically that a licensee that simply meets the interim and final performance requirements will automatically obtain a renewal expectancy. For example, a licensee would be unlikely to obtain renewal at the end of the license term where it met the applicable ''snap shot'' interim benchmark by providing signal coverage and offering service for a single day just prior to the interim benchmark, but then merely offers service once every 180 days to avoid permanent discontinuance of operation until reaching the end-of-term benchmark. We agree with U.S. Cellular that a licensee that obtains a license renewal at the end of the initial license term under the standard set forth above, and then maintains or exceeds the end-of-term seventy-five percent population coverage and offering of service level through subsequent license terms, reasonably could expect, absent extraordinary circumstances, that it would receive subsequent license renewal.

d. Permanent Discontinuance of Operations

227. In the *H Block NPRM,* the Commission requested comment on the application of the rules governing the permanent discontinuance of operations to H Block operators. Under section 1.955(a)(3) of the Commission's rules, an authorization will automatically terminate, without specific Commission action, if service is ''permanently discontinued.'' The Commission proposed to define ''permanently discontinued'' for the H Block spectrum as a period of 180 consecutive days during which a licensee does not operate and does not serve at least one subscriber that is not affiliated with, controlled by, or related to, the provider. The Commission also proposed that licensees would not be subject to this requirement until the date of the first performance requirement benchmark, which was proposed as four years from the license grant.

228. In addition, the Commission proposed that, consistent with section 1.955(a)(3) of the Commission's rules, if a licensee permanently discontinues service, the licensee must notify the Commission of the discontinuance within ten days by filing FCC Form 601 or 605 and requesting license cancellation. However, the Commission explained that even if a licensee fails to file the required form, an authorization will automatically terminate without specific Commission action if service is permanently discontinued. The Commission sought comment on these proposals, including the associated costs and benefits.

229. We determine that section 1.955(a)(3) of the Commission's rules will apply to any H Block licensee and find that the benefits of applying this rule outweigh any potential costs of doing so. Thus, an H Block operator's authorization will automatically terminate, without specific Commission action, if service is ''permanently discontinued.'' For providers that identify their regulatory status as common carrier or non-common carrier, we define ''permanently discontinued'' as a period of 180 consecutive days during which the licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to, the provider in an EA (or smaller service area in the case of a partitioned EA license). We adopt a different approach, however, for licensees that use their licenses for private, internal communications, because such licensees generally do not provide service to unaffiliated subscribers. For such private, internal communications, ''permanent discontinuance'' shall be defined as a period of 180 consecutive days during which the licensee does not operate. This approach is consistent with the discontinuance rule that the Commission has adopted for the adjacent AWS–4 band, and the only party to comment on this rule, T-Mobile, expressed support for this approach.

230. We believe that using this approach in H Block strikes the appropriate balance between affording licensees operational flexibility and ensuring that licensed spectrum is efficiently utilized. In addition, our determination will ensure that spectrum does not lie fallow and will facilitate business and network planning by providing certainty to licensees and their investors. A licensee will not be subject to the discontinuance rules until the date it must meet its first performance requirement benchmark (four years from the license grant), which provides the licensee with adequate time to construct its network.

231. Furthermore, in accordance with section 1.955(a)(3) of the Commission's rules, if a licensee permanently discontinues service, the licensee must notify the Commission of the discontinuance within ten days by filing FCC Form 601 or 605 and requesting license cancellation. However, even if the licensee fails to file the required form requesting license cancellation, an authorization will automatically terminate without specific Commission action if service is permanently discontinued.

232. Finally, as the Commission has previously explained, the operation of so-called channel keepers, *e.g.,* devices that transmit test signals, tones, and/or color bars, do not constitute ''operation'' under section 1.955(a)(3) or the Commission's other permanent discontinuance rules.

5. Secondary Markets

a. Partitioning and Disaggregation

233. Part 27 of the Commission's rules generally allows licensees to partition and disaggregate their spectrum. ''Partitioning'' is the assignment of

geographic portions of a license to another licensee along geopolitical or other boundaries. ''Disaggregation'' is the assignment of a discrete amount of spectrum under the license to a geographic licensee or qualifying entity. Disaggregation allows for multiple transmitters in the same geographic area operated by different companies on adjacent frequencies in the same band.

234. In the *H Block NPRM,* the Commission proposed to permit partitioning and disaggregation and sought comment on this proposal. The Commission's part 27 rules for terrestrial wireless service provide that licensees may apply to partition their licensed geographic service areas or disaggregate their licensed spectrum at any time following the grant of their licenses. The Commission's rules also set forth the general requirements that apply with regard to approving applications for partitioning or disaggregation, as well as other specific requirements (*e.g.,* performance requirements) that would apply to licensees that hold licenses created through partitioning or disaggregation. The Commission also proposed requiring each licensee of H Block authority who is a party to a partitioning, disaggregation, or combination of both to independently meet the applicable performance and renewal requirements. The Commission sought comment on these proposals and asked that commenters discuss and quantify the costs and benefits of these proposals on competition, innovation, and investment. Finally, the Commission sought comment on whether it should adopt additional or different mechanisms to encourage partitioning and/or disaggregation of H Block spectrum and whether such policies would promote service, especially to rural areas; and asked that commenters quantify the costs and benefits of any such proposals. We received several comments on this issue, and all were supportive of the Commission's proposal to permit partitioning and disaggregation of the H Block.

235. We adopt the proposal in the *H Block NPRM* to allow any H Block licensee to partition its service areas or disaggregate its spectrum. We conclude, based on the record before us, that permitting partitioning and disaggregation is in the public interest and that the benefits of permitting these actions outweigh any potential costs. We agree with the comments, which were universally supportive of allowing partitioning and disaggregation under part 27. CCA stated that allowing H Block licensees to partition and disaggregate would empower licensees to respond to market demand following the auction, thus spurring competition for spectrum-based services and fostering wireless innovation. MetroPCS argued that in order to promote efficient use of the H Block spectrum, the Commission should permit partitioning and disaggregation pursuant to the part 27 rules, which promote more efficient use of the band by providing licensees with additional flexibility and creating consistency among the secondary market rules for spectrum in different bands.

236. As the Commission has explained many times in the past, partitioning and disaggregation promote the efficient use of spectrum and help to expedite the provision of service to rural and other underserved areas of America as well as to niche markets. Further, by allowing H Block licensees to partition and disaggregate to the same degree as other wireless licensees providing like services, the Commission promotes competition among wireless service providers.

237. We further conclude that the public interest would be served by requiring, as we proposed in the *H Block NPRM,* each H Block licensee that is a party to a partitioning or disaggregation arrangement (or combination of both) to independently meet the applicable performance and renewal requirements. As the Commission observed in the *AWS–4 Report and Order* and the *WRS NPRM,* this approach should facilitate efficient spectrum usage and prevent the avoidance of timely construction through secondary market fiat, while still providing operators with the flexibility to design their networks according to their operation and business needs. No commenters opposed (or commented on) this approach.

b. Spectrum Leasing

238. In 2003, in an effort to promote more efficient use of terrestrial wireless spectrum through secondary market transactions and to eliminate regulatory uncertainty, the Commission adopted a comprehensive set of policies and rules governing spectrum leasing arrangements between terrestrial licensees and spectrum lessees. These policies and rules permitted terrestrially-based Wireless Radio Service ''licensees holding exclusive use [spectrum] rights'' to lease some or all of the spectrum usage rights associated with their licenses to third party spectrum lessees, which then would be permitted to provide wireless services consistent with the underlying license authorization. The Commission adopted these policies and rules in order to promote more efficient, innovative, and dynamic use of the terrestrial spectrum, to expand the scope of available wireless services and devices, to enhance economic opportunities for accessing spectrum, and to promote competition among terrestrial wireless service providers. In 2004, the Commission expanded on this spectrum leasing framework by establishing immediate approval procedures for certain categories of terrestrial spectrum leasing arrangements and extending the spectrum leasing policies to additional Wireless Radio Services. Since then, the Commission has extended these policies to still more Wireless Radio Services.

239. In the *H Block NPRM,* the Commission proposed that the spectrum leasing policies and rules established in the above-mentioned proceedings be applied to the H Block in the same manner that those policies apply to other part 27 services. The Commission sought comment on this proposal, including its effects on competition, innovation, and investment. The comments that the Commission received were supportive of this proposal.

240. We adopt the proposal in the *H Block NPRM* to apply to the H Block the Commission's current spectrum leasing policies, rules, and procedures contained in part 1 of the Commission's rules, in the same manner as those policies, rules, and procedures apply to other part 27 services. We find it in the public interest to apply the same comprehensive set of rules, policies, and procedures governing spectrum leasing arrangements between terrestrial licensees and spectrum lessees that the Commission has adopted for other wireless spectrum bands to the H Block. We believe that this decision will encourage innovative arrangements and investment in the H Block. We also observe that ''[f]or a particular spectrum band, spectrum leasing policies generally follow the same approach as the partitioning and disaggregation policies for the band.'' Thus, our decision to permit spectrum leasing of H Block spectrum is consistent with our determination above to permit partitioning and disaggregation of H Block spectrum.

241. The record unanimously supports our decision. For example, we agree with CCA that applying our current spectrum leasing rules to H Block will increase the use and utility of the H Block by allowing a diverse group of parties to efficiently and dynamically use the spectrum. We also agree with MetroPCS that applying our current spectrum leasing rules will

promote the efficient use of H Block spectrum and treat spectrum in different bands consistently in applying secondary market rules.

6. Other Operating Requirements

242. In the *H Block NPRM,* the Commission explained that even though licenses in the H Block may be issued pursuant to one rule part, licensees in this band might be required to comply with rules contained in other parts of the Commission's rules by virtue of the particular services they provide. The Commission sought comment on whether there are any provisions in existing, service-specific rules that need to be modified to ensure that H Block licensees are covered under the necessary Commission rules. In addition, the Commission sought comment on any rules that would be affected by the proposal to apply elements of the framework of these rule parts, whether separately or in conjunction with other requirements. Finally, the Commission sought comment on the costs and benefits associated with the adoption of any potential requirements. The Commission received two comments in response to this request, both of which addressed the application of the hearing-aid compatibility rules.

243. While we are generally adopting part 27 rules for the H Block, in order to maintain general consistency among various wireless communication services, we also require any licensee of H Block operating authority to comply with other rule parts that pertain generally to wireless communication services. For example, section 27.3 of the Commission's rules lists some of the other rule parts applicable to wireless communications service licensees generally; we thus find it appropriate to apply this and similar rules to the H Block. Some of these other rule parts will be applicable by virtue of the fact that they apply to all licensees, and others will apply depending on the type of service that a licensee provides. For example:

- Applicants and licensees will be subject to the application filing procedures for the Universal Licensing System, set forth in part 1 of our rules.
- Licensees will be required to comply with the practices and procedures listed in part 1 of our rules for license applications, adjudicatory proceedings, etc.
- Licensees will be required to comply with the Commission's environmental provisions, including section 1.1307.
- Licensees will be required to comply with the antenna structure provisions in part 17 of our rules.
- To the extent a licensee provides a Commercial Mobile Radio Service, such service is subject to the provisions in part 20 of the Commission's rules, including 911/E911 requirements, along with the provisions in the rule part under which the license was issued.
- To the extent a licensee provides interconnected VoIP services, the licensee will be subject to the E911 service requirements set forth in part 9 of our rules.
- The application of general provisions in parts 22, 24, 27, or 101 will include rules related to equal employment opportunity, etc.

No commenter opposed this approach. We conclude that maintaining consistency among various wireless communications services—including the H Block—is in the public interest and that the benefits of this approach outweigh any potential costs.

244. On one issue in particular, we specifically received comment seeking the application of broader rules to H Block licensees. On the issue of hearing-aid compatibility, we conclude that our Part 20 hearing-aid compatibility (HAC) requirements will apply to H Block services in the same manner and to the same extent as those requirements apply to any wireless services under the part 20 HAC rules. Thus, to the extent a licensee provides a Commercial Mobile Radio Service, such service is subject to the hearing-aid compatibility requirements in part 20 of the Commission's rules.

245. The Hearing Industries Association commented that the Commission should ''ensure the full applicability of the hearing aid compatibility rule as it unleashes new spectrum—in this instance the H Block.'' It pointed out that ''Congress has clearly directed the Commission to ensure that as devices continue to advance into multifaceted devices capable of more than traditional voice capabilities that the HAC rules continue to apply.'' HIA also argued that as technology advances and new spectrum is unleashed, ''the FCC must consider function to ensure that hearing-aid users are not locked out of fully participating in the larger economy and society.'' Thus, it argued that the HAC rules must ''focus on whether a device is used for two-way talk and how it couples with the human ear more than the name of the device or its advertised 'primary' purpose.'' Another commenter submitted arguments that addressed the Commission's HAC rules and Specific Absorption Rate (SAR) emissions rules. Mr. Johnson's comments contained general arguments that were not specifically related to H Block.

246. We agree that the Commission's HAC rules should apply to services provided in the H Block in the same manner that they apply to services provided in other bands. To the extent that comments could be read as asking for a broader review of the Commission's hearing-aid compatibility rules (or the Commission's RF safety rules), however, we decline to conduct such a review in this band-specific proceeding because we do not believe this proceeding is the appropriate proceeding for us to conduct a general review and revision of those rules.

7. Facilitating Access to Spectrum and the Provision of Service to Tribal Lands

247. The *H Block NPRM* explained that the Commission is currently considering various provisions and policies intended to promote greater use of spectrum over Tribal lands. The Commission proposed to extend any rules and policies adopted in that proceeding to any licenses that may be issued through competitive bidding in this proceeding. The Commission sought comment on this proposal and any costs and benefits associated with it.

248. We adopt the proposal in the *H Block NPRM,* deferring the application of any rules and policies for facilitating access to spectrum and the provision of service to Tribal lands to the *Tribal Lands* proceeding. Because that proceeding is specifically focused on promoting greater use of spectrum over Tribal lands, we find that it is better suited than the instant proceeding to reach conclusions on that issue.

F. Procedures for Any H Block Licenses Subject to Assignment by Competitive Bidding

249. We will conduct any auction for H Block licenses pursuant to our standard competitive bidding rules found in part 1, subpart Q of the Commission's rules and will provide bidding credits for qualifying small businesses, as proposed in the *H Block NPRM.* Below we discuss our reasons for adopting the relevant proposals.

1. Application of Part 1 Competitive Bidding Rules

250. The Commission proposed to conduct any auction for H Block licenses in conformity with the general competitive bidding rules set forth in part 1, subpart Q, of the Commission's rules, and substantially consistent with the competitive bidding procedures that

have been employed in previous auctions. Additionally, the Commission proposed to employ the part 1 rules governing competitive bidding design, designated entity preferences, unjust enrichment, application and payment procedures, reporting requirements, and the prohibition on certain communications between auction applicants. Under this proposal, such rules would be subject to any modifications that the Commission may adopt for its part 1 general competitive bidding rules in the future. The *H Block NPRM* also sought comment on whether any part 1 rules would be inappropriate or should be modified for an auction of licenses in the H Block bands.

251. Commenters generally support our proposed use of standard competitive bidding rules for an auction of H Block licenses. One of those commenters, MetroPCS, asserts that the Commission should avoid the use of procedures that may ''unduly complicate auctions'' or otherwise ''limit the ability of smaller bidders to acquire spectrum.'' Another argues that the Commission should not depart from its standard simultaneous multiple-round format for an H Block auction. Based on our review of the record and our prior experience with conducting auctions, we determine that the Commission's Part 1 bidding rules should govern the conduct of any H Block auction.

2. Revision to Part 1 Certification Procedures

252. The *H Block NPRM* proposed to implement the national security restriction of section 6004 of the Spectrum Act by adding a certification to the short-form application filed by auction applicants. Section 6004 prohibits ''a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant'' from participating in a system of competitive bidding that is required to be conducted by Title VI of the Spectrum Act. Accordingly, the Commission proposed to require that an auction applicant certify, under penalty of perjury, that it and all of the related individuals and entities required to be disclosed on the short-form application are not persons who have ''been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant.'' For purposes of this certification, the *H Block NPRM* proposed to define ''person'' as an individual, partnership, association, joint-stock company, trust, or corporation. It also proposed to define ''reasons of national security'' to mean matters relating to the national defense and foreign relations of the United States. We received no comments on our proposal to revise the part 1 certification procedures to add a national security certification requirement.

253. We will implement this Spectrum Act mandate by adding a national security certification to the various other certifications that a party must make in any application to participate in competitive bidding as required under our existing rules. As with other required certifications, an auction applicant's failure to include the required certification by the applicable filing deadline would render its short-form application unacceptable for filing, and its application would be dismissed with prejudice.

3. Small Business Provisions for Geographic Area Licenses

254. As discussed in the *H Block NPRM,* in authorizing the Commission to use competitive bidding, Congress mandated that the Commission ''ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services.'' In addition, section 309(j)(3)(B) of the Communications Act provides that, in establishing eligibility criteria and bidding methodologies, the Commission shall seek to promote a number of objectives, including ''economic opportunity and competition . . . by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.'' One of the principal means by which the Commission fulfills this mandate is through the award of bidding credits to small businesses.

255. In the *Competitive Bidding Second Memorandum Opinion and Order,* the Commission stated that it would define eligibility requirements for small businesses on a service-specific basis, taking into account the capital requirements and other characteristics of each particular service in establishing the appropriate threshold. Further, in the *Part 1 Third Report and Order,* the Commission, while standardizing many auction rules, determined that it would continue a service-by-service approach to defining the eligibility requirements for small businesses.

256. The Commission proposed in the *H Block NPRM* to define a small business as an entity with average gross revenues for the preceding three years not exceeding $40 million, and a very small business as an entity with average gross revenues for the preceding three years not exceeding $15 million. Under this proposal, small businesses would be provided with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent, consistent with the standardized schedule in part 1 of our rules.

257. This proposal was modeled on the small business size standards and associated bidding credits that the Commission adopted for the AWS–1 band. The Commission believed that the H Block would be employed for purposes similar to those for which the AWS–1 Band is used. The *H Block NPRM* noted that these small business size standards and associated bidding credits were proposed for the AWS–1 band because of the similarities between the AWS–1 service and the broadband PCS service and that the Commission had followed this approach when proposing small business size standards and associated bidding credits in the *AWS–2 NPRM.*

258. The Commission sought comment on these proposals, including the costs or benefits of these standards and associated bidding credits, especially as they relate to the proposed EA-defined geographic area licensing approach. The Commission specifically sought comment on whether the small business provisions we proposed are sufficient to promote participation by businesses owned by minorities and women. Those addressing small business credits generally support the Commission's proposals.

259. RTG supports the Commission's proposed bidding credits, and argues for creation of an additional size standard under which auction applicants with average gross revenues not exceeding $75 million for the preceding three years would receive a 10 percent bidding credit. RTG asserts that this additional bidding credit tier would help ''slightly larger small and rural telephone companies to compete for spectrum with nationwide carriers on a more level playing field.'' Similarly, Broadband Properties seeks adoption of a 35 percent bidding discount for ''smaller operators,'' though it does not state what size firm might be considered to be a ''smaller operator.'' The Commission has previously considered and rejected RTG's efforts to create an additional rural telephone company bidding credit. In so doing, the Commission observed that RTG and

other proponents had been unable ''to demonstrate a historical lack of access to capital that was the basis for according bidding credits to small businesses, minorities and women,'' and that ''[i]n subsequent decisions, large rural telcos have failed to demonstrate any barriers to capital formation similar to those faced by other designated entities.'' Moreover, RTG supplies no additional information from which we might conclude that entities with average annual gross revenues of between $40 and $75 million have faced particular difficulties in attracting capital. While we have not intended to apply the part 1 bidding credit schedule uniformly to all auctions without any opportunity for the consideration of alternative bidding credits, we continue to believe that the schedule of size standards and bidding credits described in part 1 provide small businesses with consistency and predictability. As discussed above, we took the characteristics of this service into consideration when proposing the two size standards and associated bidding credits in the *H Block NPRM.* Accordingly, we decline to adopt an additional size standard and bidding credit for the H block.

260. MetroPCS argues that we should adopt a scale of bidding credits based on an entity's spectrum holdings in a particular geographic area in lieu of credits based on small business size. MetroPCS would also bar an auction applicant from acquiring any license that would cause it to exceed the spectrum screen in effect prior to the allocation of the spectrum to be offered at auction. AT&T and Sprint call on the Commission to reject MetroPCS's alternative bidding credit plan. AT&T argues that ''[t]his proposal is little more than an attempt to achieve . . . restrictions on auction participation based on spectrum holdings'' which it contends would be ''anticompetitive and unlawful.'' We find that MetroPCS's proposal fundamentally involves issues of spectrum aggregation policy, and that those issues would be more properly addressed in the separate *Mobile Spectrum Holdings Policies* proceeding. Thus we decline to replace our small business bidding credit program with MetroPCS's alternative approach.

261. Based on our prior experience with the use of bidding credits in spectrum auctions, we believe that the use of bidding credits is an effective tool in achieving the statutory objective of promoting participation by designated entities in the provision of spectrum-based services. In the absence of small business size standards and bidding credits, designated entities might have less opportunity to obtain spectrum in this band. The Commission believes that continuing to extend such benefits to the H Block would be consistent with our statutory mandate. In light of the similarities with the AWS–1 service, we adopt these size standards and associated bidding credits for small businesses. We have requested SBA approval of these size standards. Moreover, we continue to believe that use of the small business size standards and credits set forth in the part 1 schedule provides consistency and predictability for small businesses. Specifically, we will define a small business as an entity with average gross revenues for the preceding three years not exceeding $40 million, and a very small business as an entity with average gross revenues for the preceding three years not exceeding $15 million. For the H block, small businesses would be provided with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent, consistent with the standardized schedule in part 1 of our rules. Given the record before us and the benefits discussed above, we conclude that the potential benefits of our proposals would likely outweigh any potential costs.

IV. Procedural Matters

Final Regulatory Flexibility Analysis

262. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the *Report and Order* on small entities. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking (NPRM).* No comments were filed addressing the IRFA. Because we amend the rules in this *Report and Order,* we have included this Final Regulatory Flexibility Analysis (FRFA) which conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

263. Demand for wireless broadband services and the network capacity associated with those services is surging, resulting in a growing demand for spectrum to support these services. Adoption of smartphones increased at a 50 percent annual growth rate in 2011, from 27 percent of U.S. mobile subscribers in December 2010 to nearly 42 percent in December 2011. Further, consumers have rapidly adopted the use of tablets, which were first introduced in January of 2010. By the end of 2012, it was estimated that one in five Americans—almost 70 million people—would use a tablet. Between 2011 and 2017, mobile data traffic generated by tablets is expected to grow at a compound annual growth rate of 100 percent. New mobile applications and services, such as high resolution video communications, are also using more bandwidth. For example, a single smartphone can generate as much traffic as thirty-five basic-feature mobile phones, while tablets connected to 3G and 4G networks use three times more data than smartphones over the cellular network. All of these trends, in combination, are creating an urgent need for more network capacity and, in turn, for suitable spectrum.

264. The 2010 *National Broadband Plan* recommended the Commission undertake to make 500 megahertz of spectrum available for broadband use within ten years, including 300 megahertz within five years. The Commission has taken numerous steps to achieve these goals, including recently adopting a notice of proposed rulemaking on conducting the world's first incentive auction to repurpose broadcast spectrum for wireless broadband use, updating the Commission's rules for the 2.3 GHz Wireless Communications Service (WCS) band to permit the use of the most advanced wireless technologies in that band, and establishing service rules to allow terrestrial mobile broadband in the 2 GHz MSS bands.

265. In February 2012, Congress enacted Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (the ''Spectrum Act''). The Spectrum Act includes several provisions to make more spectrum available for commercial use, including through auctions, and to improve public safety communications. Among other things, the Spectrum Act requires the Commission, by February 23, 2015, to allocate the 1915–1920 MHz band and the 1995–2000 MHz band (collectively, the H Block) for commercial use, and to auction and grant new initial licenses for the use of each spectrum band, subject to flexible-use service rules. Congress provided, however, that if the Commission determined that either of the bands

could not be used without causing harmful interference to commercial licensees in 1930–1995 MHz (PCS downlink), then the Commission was prohibited from allocating that specific band for commercial use or licensing it. Additionally, Sections 6401(f) and 6413 of the Spectrum Act specify that the proceeds from an auction of licenses in the 1995–2000 MHz band and in the 1915–1920 MHz band shall be deposited in the Public Safety Trust Fund and used to fund the Nationwide Public Safety Broadband Network (''FirstNet''). The H Block spectrum could be the first spectrum specified by the Spectrum Act to be licensed by auction, and thus could represent the first inflow of auction revenues toward this statutory goal.

266. In this *Report and Order,* we increase the Nation's supply of spectrum for mobile broadband by adopting rules for fixed and mobile services, including advanced wireless services in the H Block, 1915–1920 MHz paired with 1995–2000 MHz. These service rules will make available 10 megahertz of spectrum for flexible use in accordance with the Spectrum Act, without causing harmful interference to Personal Communications Service (PCS) licensees. In so doing, we also carry out a recommendation in the *National Broadband Plan* that the Commission make available the provision of Advanced Wireless Services in the 1915–1920 MHz and 1995–2000 MHz spectrum bands, thus increasing the value of this spectrum to the public. Specifically, we adopt service, technical, and licensing rules that will encourage innovation and investment in mobile broadband and provide certainty and a stable regulatory regime in which broadband deployment can rapidly occur. For example, we find the spectrum is properly allocated for commercial use as the Spectrum Act requires, and authorize mobile and lower power fixed operations in the 1915–1920 MHz band and base and fixed operations in the 1995–2000 MHz band. We also adopt service, technical, assignment, and licensing rules for this spectrum that generally follow the Commission's part 27 rules that govern flexible use terrestrial wireless service—except that in order to protect PCS licenses, our rules are more stringent in certain respects. The market-oriented licensing framework for these bands will ensure efficient spectrum utilization and will foster the development of new and innovative technologies and services, as well as encourage the growth and development of broadband services, ultimately leading to greater benefits to consumers.

B. Legal Basis

267. The action is authorized pursuant to sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1404, and 1451 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1404, and 1451.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

268. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

269. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards that encompass entities that could be directly affected by the proposals under consideration. As of 2010, there were 27.9 million small businesses in the United States, according to the SBA. Additionally, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

270. *Wireless Telecommunications Carriers (except satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services. The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers. The size standard for that category is that a business is small if it has 1,500 or fewer employees. For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year. Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, PCS, and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

271. The projected reporting, recordkeeping, and other compliance requirements resulting from the *Report and Order* will apply to all entities in the same manner. The Commission believes that applying the same rules equally to all entities in this context promotes fairness. The Commission does not believe that the costs and/or administrative burdens associated with the rules will unduly burden small entities. The revisions the Commission adopts should benefit small entities by giving them more information, more flexibility, and more options for gaining access to valuable wireless spectrum.

272. Any applicants for licenses of H Block will be required to file license applications using the Commission's automated Universal Licensing System

(ULS). ULS is an online electronic filing system that also serves as a powerful information tool, one that enables potential licensees to research applications, licenses, and antennae structures. It also keeps the public informed with weekly public notices, FCC rulemakings, processing utilities, and a telecommunications glossary. Licensees of H Block that must submit long-form license applications must do so through ULS using Form 601, FCC Ownership Disclosure Information for the Wireless Telecommunications Services using FCC Form 602, and other appropriate forms.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

273. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

274. As set forth in this *Report and Order,* we will license the H Block bands under Economic Areas (EA) geographic size licenses. Utilizing EAs in the H Block will provide regulatory parity with other AWS bands that are licensed on an EA basis, such as AWS–1 B and C block licenses. Additionally, assigning H Block in EA geographic service areas will allow H Block licensees to make adjustments to suit their individual needs. Although some commenters advocated for smaller or larger sized licensed areas, such as Cellular Market Areas or Metropolitan Statistical Areas, we believe that EA license areas are small enough to provide spectrum access opportunities for smaller carriers. EA license areas also nest within and may be aggregated up to larger license areas that have been used by the Commission for other services, such as Major Economic Areas (MEAs) and Regional Economic Area Groupings (REAGs) for those seeking to create larger service areas. Licensees may also adjust their geographic coverage through secondary markets. These rules should enable licensees of H Block spectrum, or any entities, whether large or small, providing service in other AWS bands to more easily adjust their spectrum holdings to build their networks pursuant to individual business plans. As a result, we believe the ability of licensees to adjust spectrum holdings will provide an economic benefit by making it easier for small entities to acquire spectrum or access spectrum in these bands.

275. This *Report and Order* adopts rules to protect licensees operating in nearby spectrum bands from harmful interference, which may include small entities. The technical rules adopted in the *Report and Order* are based on the rules for AWS–1 spectrum, with specific additions or modifications designed, among other things, to protect broadband PCS services operating in the 1930–1995 MHz band from harmful interference, as well as future services operating in the 2000–2020 MHz band. We adopt specific Out-of-Band-Emissions (OOBE) limits for the 1915–1920 MHz band and the 1995–2000 MHz band. We base our decision on the record, the probabilistic nature of mobile-to-mobile interference, and the statutory requirements of the Spectrum Act. The record in this proceeding contains three interference studies that supported a specific OOBE limit of $96 + 10 \log_{10}(P)$ dB and a power limit of 300 milliwatts EIRP for the 1915–1920 MHz band. We adopt the power limit, but conclude an OOBE limit of $70 + 10 \log_{10}(P)$ dB is appropriate for the 1915–1920 MHz band, which ensures full flexible use of the band while also protecting the 1930–1995 MHz PCS band from harmful interference. Although one party commented that OOBE limits for the 1995–2000 MHz band should be stricter than what the Commission proposed or adopted in this *Report and Order,* we concluded those suggested limits were overly burdensome. The technical rules in the *Report and Order* will therefore allow licensees of the H Block spectrum to operate while also protecting licensees in nearby spectrum from harmful interference, some of whom may be small entities, and meet the statutory requirements of the Spectrum Act.

276. The *Report and Order* provides licensees of H Block with the flexibility to provide any fixed or mobile service that is consistent with the allocations for this spectrum, which is consistent with other spectrum allocated or designated for licensed fixed and mobile services, *e.g.,* AWS–1. The *Report and Order* further provides for licensing of this spectrum under the Commission's market-oriented part 27 rules. This includes applying the Commission's secondary market policies and rules to all transactions involving the use of H Block bands, which will provide greater predictability and regulatory parity with bands licensed for mobile broadband service. These rules should make it easier for H Block providers to enter secondary market arrangements involving use of their spectrum. The secondary market rules apply equally to all entities, whether small or large. As a result, we believe that this will provide an economic benefit to small entities by making it easier for entities, whether large or small, to enter into secondary market arrangements for H Block spectrum.

277. The *Report and Order* adopts rules pertaining to how the H Block licenses will be assigned, including rules to assist small entities in competitive bidding. Specifically, small entities will benefit from the proposal to provide small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent. Providing small businesses and very small businesses with bidding credits will provide an economic benefit to small entities by making it easier for small entities to acquire spectrum or access to spectrum in these bands.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Rules

278. None.

279. *Paperwork Reduction Act Analysis:* This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. Prior to submission to OMB, the Commission will publish a notice in the **Federal Register** seeking public comment on the new or modified information collection requirement for OMB 3060–1184. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

280. In this present document, we have assessed the effects of the policies adopted in this *Report and Order* with regard to information collection burdens on small business concerns, and find that these policies will benefit many companies with fewer than 25 employees because the revisions we adopt should provide small entities with more information, more flexibility, and more options for gaining access to valuable wireless spectrum. In addition, we have described impacts that might affect small businesses, which includes

most businesses with fewer than 25 employees, in the FRFA in Appendix B of the *Report and Order, infra.*

V. Ordering Clauses

281. Accordingly, it is ordered, pursuant to sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, and 333 of the Communications Act of 1934, as amended, and sections 6003, 6004, and 6401 of the Middle Class Tax Relief Act of 2012, Public Law 112–96, 126 Stat. 156, 47 U.S.C. 151, 152, 154(i), 201, 301, 302(a), 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1403, 1404, and 1451, that this Report and Order is hereby ordered.

282. Effective September 16, 2013 except for 47 CFR 1.2105(a)(2)(xii), 27.12, and 27.17, which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB), Control Number 3060–1184. The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

283. It is further ordered that the amendments, adopted above and specified in §§ 1.2105, 27.12, 27.14, and 27.17 of the Commission's rules, 47 CFR 1.2105, 27.12, 27.14, and 27.17, which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, will become effective after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date.

284. It is further ordered that the Final Regulatory Flexibility Analysis hereto is adopted.

285. It is further ordered that, pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), the Commission shall send a copy of this *Report and Order* to Congress and to the Government Accountability Office.

286. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Radio, Reporting and recordkeeping requirements.

47 CFR Part 27

Communications common carriers, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 27 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, and 1451.

■ 2. Section 1.2105 is amended by adding paragraph (a)(2)(xii) to read as follows:

§ 1.2105 Bidding application and certification procedures; prohibition of certain communications.

(a) * * *

(2) * * *

(xii) For auctions required to be conducted under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96), certification under penalty of perjury that the applicant and all of the person(s) disclosed under paragraph (a)(2)(ii) of this section are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant. For the purposes of this certification, the term ''person'' means an individual, partnership, association, joint-stock company, trust, or corporation, and the term ''reasons of national security'' means matters relating to the national defense and foreign relations of the United States.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 3. The authority citation for part 27 is revised to read as follows:

Authority: 47 U.S.C. 154, 301, 302(a), 303, 307, 309, 332, 336, 337, 1403, 1404, and 1451 unless otherwise noted.

■ 4. Section 27.1 is amended by adding paragraph (b)(7) to read as follows:

§ 27.1 Basis and purpose.

* * * * *

(b) * * *

(7) 1915–1920 MHz and 1995–2000 MHz.

* * * * *

■ 5. Section 27.4 is amended by revising the definition of ''*Advanced Wireless Service (AWS)''* to read as follows:

§ 27.4 Terms and definitions.

Advanced Wireless Service (AWS). A radiocommunication service licensed pursuant to this part for the frequency bands specified in § 27.5(h), 27.5(j), or 27.5(k).

* * * * *

■ 6. Section 27.5 is amended by adding paragraph (k) to read as follows:

§ 27.5 Frequencies.

* * * * *

(k) *1915–1920 MHz and 1995–2000 MHz bands.* The paired 1915–1920 MHz and 1995–2000 MHz bands are available for assignment on an Economic Area (EA) basis.

■ 7. Section 27.6 is amended by adding paragraph (j) to read as follows:

§ 27.6 Service areas.

* * * * *

(j) *1915–1920 MHz and 1995–2000 MHz bands.* AWS service areas for the 1915–1920 MHz and 1995–2000 MHz bands are based on Economic Areas (EAs) as defined in paragraph (a) of this section.

■ 8. Section 27.12 is revised to read as follows:

§ 27.12 Eligibility.

(a) Except as provided in paragraph (b) and in §§ 27.604, 27.1201, and 27.1202, any entity other than those precluded by section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, is eligible to hold a license under this part.

(b) A person described in 47 U.S.C. 1404(c) is ineligible to hold a license that is required by 47 U.S.C. Chapter 13 (Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, 125 Stat. 156 (2012)) to be assigned by a system of competitive bidding under § 309(j) of the Communications Act, 47 U.S.C. 309(j).

■ 9. Section 27.13 is amended by adding paragraph (j) to read as follows:

§ 27.13 License period.

* * * * *

(j) *1915–1920 MHz and 1995–2000 MHz bands.* Authorizations for 1915–1920 MHz and 1995–2000 MHz bands will have a term not to exceed ten years from the date of issuance or renewal.

■ 10. Section 27. 14 is amended by revising the first sentence of paragraphs (a), (f), and (k), and adding paragraph (r) to read as follows:

§ 27.14 Construction requirements; Criteria for renewal.

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for Block A in the 698–

704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, Block D in the 758–763 MHz and 788–793 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band, and with the exception of licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands, must, as a performance requirement, make a showing of ''substantial service'' in their license area within the prescribed license term set forth in § 27.13. * * *

* * * * *

(f) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for the 698–746 MHz, 747–762 MHz, and 777–792 MHz bands or licensees holding AWS authorizations for the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands. * * *

* * * * *

(k) Licensees holding WCS or AWS authorizations in the spectrum blocks enumerated in paragraphs (g), (h), (i), (q), or (r) of this section, including any licensee that obtained its license pursuant to the procedures set forth in paragraph (j) of this section, shall demonstrate compliance with performance requirements by filing a construction notification with the Commission, within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in § 1.946(d) of this chapter. * * *

* * * * *

(r) The following provisions apply to any licensee holding an AWS authorization in the 1915–1920 MHz and 1995–2000 MHz bands:

(1) A licensee shall provide signal coverage and offer service within four (4) years from the date of the initial license to at least forty (40) percent of the total population in each of its licensed areas (''Interim Buildout Requirement'').

(2) A licensee shall provide signal coverage and offer service within ten (10) years from the date of the initial license to at least seventy-five (75) percent of the population in each of its licensed areas (''Final Buildout Requirement'').

(3) If a licensee fails to establish that it meets the Interim Buildout Requirement for a particular licensed area, then the Final Buildout Requirement (in this paragraph (r)) and the license term (as set forth in § 27.13(j)) for each license area in which it fails to meet the Interim Buildout Requirement shall be accelerated by two years (from ten to eight years).

(4) If a licensee fails to establish that it meets the Final Buildout Requirement for a particular licensed areas, its authorization for each license area in which it fails to meet the Final Buildout Requirement shall terminate automatically without Commission action and the licensee will be ineligible to regain it if the Commission makes the license available at a later date.

(5) To demonstrate compliance with these performance requirements, licensees shall use the most recently available U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will only be deemed served by the licensee if it provides signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may only include the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license.

(6) An applicant for renewal of a license covered by this paragraph (r) must make a renewal showing, independent of its performance requirements, as a condition of renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

(i) The level and quality of service provided by the applicant (*e.g.,* the population served, the area served, the number of subscribers, the services offered);

(ii) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(iii) The extent to which service is provided to rural areas;

(iv) The extent to which service is provided to qualifying tribal land as defined in § 1.2110(f)(3)(i) of this chapter; and

(v) Any other factors associated with the level of service to the public.

■ 11. Section 27.15 is amended by revising paragraphs (d)(1)(i), (d)(1)(iii), (d)(2)(i), and (d)(2)(iii) to read as follows:

§ 27.15 Geographic partitioning and spectrum disaggregation.

* * * * *

(d) * * *

(1) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, or Block D in the 758–763 MHz and 788–793 MHz bands; and for licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

* * * * *

(iii) For licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands, or the 2000–2020 MHz and 2180–2200 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Each party to a geographic partitioning must individually meet any service-specific performance requirements (i.e., construction and operation requirements). If a partitioner or partitionee fails to meet any service-specific performance requirements on or before the required date, then the consequences for this failure shall be those enumerated in § 27.14(q) for 2000–2020 MHz and 2180–2200 MHz licenses and those enumerated in § 27.14(r) for 1915–1920 MHz and 1995–2000 MHz licensees.

(2) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, or Block D in the 758–763 MHz and 788–793 MHz bands; and for licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. Parties to disaggregation agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the disaggregator and disaggregatee each certifies that it will share responsibility for meeting the substantial service requirement for the geographic service area. If the parties choose this option and either party subsequently fails to satisfy its substantial service responsibility, both parties' licenses will be subject to forfeiture without further Commission action. Under the second option, both parties certify either that the disaggregator or the disaggregatee will meet the substantial service requirement for the geographic service area. If the parties choose this option, and the party responsible subsequently fails to meet the substantial service requirement, only that party's license will be subject to forfeiture without further Commission action.

* * * * *

(iii) For licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Each party to a spectrum disaggregation must individually meet any service-specific performance requirements (i.e., construction and operation requirements). If a disaggregator or a disaggregatee fails to meet any service-specific performance requirements on or before the required date, then the consequences for this failure shall be those enumerated in § 27.14(q) for 2000–2020 MHz and 2180–2200 MHz licenses and those enumerated in § 27.14(r) for 1915–1920 MHz and 1995–2000 MHz licensees.

■ 12. Section 27.17 is revised to read as follows:

§ 27.17 Discontinuance of service in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands.

(a) *Termination of authorization.* A licensee's AWS authorization in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands will automatically terminate, without specific Commission action, if it permanently discontinues service after meeting the respective Interim Buildout Requirement as specified in § 27.14(r) or AWS–4 Final Buildout Requirement as specified in § 27.14(q).

(b) For licensees with common carrier or non-common carrier regulatory status that hold AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands, permanent discontinuance of service is defined as 180 consecutive days during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the licensee. For licensees with private, internal regulatory status that hold AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands, permanent discontinuance of service is defined as 180 consecutive days during which a licensee does not operate.

(c) *Filing Requirements.* A licensee of the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands that permanently discontinues service as defined in this section must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 requesting license cancellation. An authorization will automatically terminate, without specific Commission action, if service is permanently discontinued as defined in this section, even if a licensee fails to file the required form requesting license cancellation.

■ 13. Section 27.50 is amended by revising paragraph (d) introductory text, paragraphs (d)(1) introductory text and (d)(2) introductory text, and adding paragraphs (d)(9) and (10), to read as follows:

§ 27.50 Power limits and duty cycle.

* * * * *

(d) The following power and antenna height requirements apply to stations transmitting in the 1710–1755 MHz, 2110–2155 MHz, 2000–2020 MHz, 2180–2200 MHz, 1915–1920 MHz, and 1995–2000 MHz bands:

(1) The power of each fixed or base station transmitting in the 1995–2000 MHz, 2110–2155 MHz, or 2180–2200 MHz band and located in any county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to:

* * *

(2) The power of each fixed or base station transmitting in the 1995–2000 MHz, the 2110–2155 MHz, or 2180–2200 MHz band and situated in any geographic location other than that described in paragraph (d)(1) of this section is limited to:

* * * * *

(9) Fixed, mobile and portable (hand-held) stations operating in the 1915–1920 MHz band are limited to 300 milliwatts EIRP.

(10) A licensee operating a base or fixed station in the 1995–2000 MHz band utilizing a power greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP must be coordinated in advance with all PCS G Block licensees authorized to operate on adjacent frequency blocks in the 1990–1995 MHz band within 120 kilometers of the base or fixed station operating in this band.

* * * * *

■ 14. Section 27.53 is amended by revising paragraph (h)(1) and adding paragraphs (h)(2)(iii) and (iv) to read as follows:

§ 27.53 Emission limits.

* * * * *

(h) * * *

(1) *General protection levels.* Except as otherwise specified below, for operations in the 1710–1755 MHz, 2110–2155 MHz, 2000–2020 MHz, 2180–2200 MHz, 1915–1920 MHz, and 1995–2000 MHz bands, the power of any emission outside a licensee's frequency block shall be attenuated below the transmitter power (P) by at least $43 + 10 \log_{10}(P)$ dB.

(2) * * *

(iii) For operations in the 1915–1920 MHz band, the power of any emission between 1930–1995 MHz shall be attenuated below the transmitter power (P) in watts by at least $70 + 10 \log_{10}(P)$ dB.

(iv) For operations in the 1995–2000 MHz band, the power of any emission between 2005–2020 MHz shall be attenuated below the transmitter power (P) in watts by at least $70 + 10 \log_{10}(P)$ dB.

* * * * *

■ 15. Section 27.55 is amended by revising paragraph (a)(1) to read as follows:

§ 27.55 Power strength limits.

(a)* * *

(1) 1995–2000, 2110–2155, 2180–2200 MHz, 2305–2320, and 2345–2360 MHz bands: 47 dBμV/m.

* * * * *

■ 16. Section 27.57 is amended by revising paragraph (c) to read as follows:

§ 27.57 International coordination.

(c) Operation in the 1710–1755 MHz, 2110–2155 MHz, 1915–1920 MHz, 1995–2000 MHz, 2000–2020 MHz, and 2180–2200 MHz bands is subject to international agreements with Mexico and Canada.

■ 17. Add subpart K to part 27 to read as follows:

Subpart K—1915–1920 MHz and 1995–2000 MHz

Sec.

Subpart K—1915–1920 MHz and 1995–2000 MHz

Licensing and Competitive Bidding Provisions

§ 27.1001 1915–1920 MHz and 1995–2000 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for 1915–1920 MHz and 1995–2000 MHz band licenses are subject to competitive bidding. The general competitive bidding procedures set forth in 47 CFR part 1, subpart Q will apply unless otherwise provided in this subpart.

§ 27.1002 Designated entities in the 1915–1920 MHz and 1995–2000 MHz bands.

Eligibility for small business provisions:

(a)(1) A small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average gross revenues not exceeding $40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average gross revenues not exceeding $15 million for the preceding three years.

(b) *Bidding credits.* A winning bidder that qualifies as a small business as defined in this section or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter. A winning bidder that qualifies as a very small business as defined in this section or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter.

Reimbursement Obligation of Licensees at 1915–1920 MHz and 1995–2000 MHz

§ 27.1021 Reimbursement obligation of licensees at 1915–1920 MHz.

A licensee in the 1915–1920 MHz band (Lower H Block) shall, within 30 days of grant of its long-form application, reimburse 25 percent of the total relocation costs incurred by UTAM, Inc. for relocating and clearing incumbent Fixed Microwave Service (FS) licensees from the 1910–1930 MHz band on a *pro rata* shared basis with other Lower H Block licensees as set forth in paragraphs (a) through (e) of this section.

(a)(1) If Lower H Block licenses granted as a result of the first auction for this spectrum cover, collectively, at least forty (40) percent of the nation's population, the amount owed to UTAM, Inc. by each individual Lower H Block licensee (reimbursement amount owed or RN) will be determined by dividing the gross winning bid (GWB) for each individual Lower H Block license (*i.e.,* an Economic Area (EA)) by the sum of the gross winning bids for all Lower H Block licenses for which there is a winning bid in the first auction, and then multiplying by $12,629,857.

RN = (EA GWB ÷ Sum of GWBs) × $12,629,857.00

(2) Except as provided in paragraphs (b) and (c) of this section, a licensee that obtains a license for a market in which no license is granted as a result of the first Lower H Block auction will not have a reimbursement obligation to UTAM, Inc.

(b) If Lower H Block licenses granted as a result of the first auction for this spectrum cover, collectively, less than forty (40) percent of the nation's population, then the pro rata amount that the licensee of an individual Lower H Block license must reimburse UTAM, Inc. shall be calculated by dividing the population of the individual EA by the total U.S. population, and then multiplying by $12,629,857. In this event, the same population data, e.g., 2010, used to calculate the RNs for Lower H Block licenses granted as a result of the first auction will apply to subsequent auctions of Lower H Block licenses that were not granted as a result of an earlier auction of Lower H Block licenses.

RN = (EA POP ÷ U.S. POP) × $12,629,857.00

(c) A winning bidder of a Lower H Block license that is not granted a license for any reason will be deemed to have triggered a reimbursement obligation to UTAM, Inc. This obligation will be owed to UTAM, Inc. by the licensee acquiring the Lower H Block license through a subsequent auction. The amount owed by the licensee acquiring the Lower H Block license at such auction will be the RN calculated for the EA license based on the first auction (calculated under paragraphs (a) or (b), as applicable, of this section).

(d) For purposes of compliance with this section, licensees should determine population based on 2010 U.S. Census Data or such other data or measurements that the Wireless Telecommunications Bureau proposes and adopts under the notice and comment process for the auction procedures.

(e) A payment obligation owed by a Lower H Block licensees under this section shall be made within thirty (30) days of the grant of the license (*i.e.,* grant of the long form application).

§ 27.1031 Reimbursement obligation of licensees at 1995–2000 MHz.

A licensee in the 1995–2000 MHz band (Upper H Block) shall, within 30 days of grant of its long-form application, reimburse one-seventh of the eligible expenses incurred by Sprint Nextel, Inc. (Sprint) for relocating and clearing Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) incumbents from the 1990–2025 MHz band, on a *pro rata* shared basis with other Upper H Block licensees as set forth in paragraphs (a) through (e) of this section.

(a)(1) If Upper H Block licenses granted as a result of the first auction for this spectrum cover, collectively, at least forty (40) percent of the nation's population, the amount owed to Sprint by the winning bidder of each individual Upper H Block license granted as a result of the first auction will be determined by dividing the gross winning bid (GWB) for each individual Upper H Block license (*i.e.,* an Economic Area (EA)) by the sum of the gross winning bids for all Upper H

Block licenses for which there is a winning bid in the first auction, and then multiplying by $94,875,516.

RN = (EA GWB ÷ Sum of GWBs) × $94,875,516

(2) Except as provided in paragraphs (b) and (c) of this section, a licensee that obtains a license for a market in which no license was granted as a result of the first Upper H Block auction will not have a reimbursement obligation to Sprint.

(b) If Upper H Block licenses granted as a result of the first auction for this spectrum cover, collectively, less than forty (40) percent of the nation's population, then the amount that the licensee of an individual Upper H Block license must reimburse Sprint shall be calculated by dividing the population of the individual EA by the total U.S. population, and then multiplying by $94,875,516. In this event, the same population data, e.g., 2010, used to calculate the RNs for Upper H Block licenses granted as a result of the first auction will apply to subsequent auctions of Upper H Block licenses that were not granted as a result of an earlier auction of Upper H Block licenses.

RN = (EA POP ÷ U.S. POP) × $94,875,516

(c) A winning bidder of an Upper H Block license that is not granted a license for any reason will be deemed to have triggered a reimbursement obligation to Sprint. This obligation will be owed to Sprint by the licensee acquiring the Upper H Block license through a subsequent auction. The amount owed by the licensee acquiring the EA license at such auction will be based on the RN calculated for the EA license based on the first auction (calculated under paragraphs (a) or (b), as applicable, of this section).

(d) For purposes of compliance with this section, licensees should determine population based on 2010 U.S. Census Data or such other data or measurements that the Wireless Telecommunications Bureau proposes and adopts under the notice and comment process for the auction procedures.

(e) A payment obligation owed by a Upper H Block licensees under this section shall be made within thirty (30) days of the grant of the license (i.e., grant of the long form application).

§ 27.1041 Termination of cost-sharing obligations.

(a) The cost-sharing obligation adopted in this subpart for the Lower H Block and for the Upper H Block will sunset ten years after the first license is issued in the respective band.

(b) A Lower H Block licensee and an Upper H Block licensee must satisfy in full its payment obligations under this subpart K within thirty days of the grant of its long-form application. The failure to timely satisfy a payment obligation in full prior to the applicable sunset date will not terminate the debt owed or a party's right to collect the debt.

[FR Doc. 2013–19779 Filed 8–15–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL REGISTER

Vol. 78 Friday,
No. 159 August 16, 2013

Part IV

Commodity Futures Trading Commission

17 CFR Parts 39, 140, and 190
Derivatives Clearing Organizations and International Standards; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 39, 140, and 190

RIN Number 3038–AE06

Derivatives Clearing Organizations and International Standards

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is proposing amendments to its regulations to establish additional standards for compliance with the derivatives clearing organization (''DCO'') core principles set forth in Section 5b(c)(2) of the Commodity Exchange Act (''CEA'') for systemically important DCOs (''SIDCOs'') and DCOs that elect to opt-in to the SIDCO regulatory requirements (''Subpart C DCOs''). SIDCOs and Subpart C DCOs would be required to comply with the requirements applicable to all DCOs, which are set forth in the Commission's DCO regulations on compliance with core principles, to the extent those requirements are not inconsistent with the requirements of the regulations in this proposed rule. The proposed amendments include: Procedural requirements for opting in to the regulatory regime as well as substantive requirements relating to governance, financial resources, system safeguards, special default rules and procedures for uncovered losses or shortfalls, risk management, additional disclosure requirements, efficiency, and recovery and wind-down procedures. These additional requirements would also be consistent with the Principles for Financial Market Infrastructures (''PFMIs'') published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions (''CPSS–IOSCO''). In addition, the Commission is proposing certain delegation provisions and certain technical clarifications.

DATES: Submit comments on or before September 16, 2013.

ADDRESSES: You may submit comments, identified by RIN number 3038–AE06, by any of the following methods:

- Agency Web site: *http://comments.cftc.gov.*
- Mail: Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- Hand Delivery/Courier: Same as Mail, above.
- Federal eRulemaking Portal: *http://www.Regulations.gov.* Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Commission regulation 145.

The Commission reserves the right but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language.

All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Ananda Radhakrishnan, Director, Division of Clearing and Risk (''DCR''), at 202–418–5188 or *aradhakrishnan@cftc.gov;* Robert B. Wasserman, Chief Counsel, DCR, at 202–418–5092 or *rwasserman@cftc.gov;* M. Laura Astrada, Associate Chief Counsel, DCR, at 202–418–7622 or *lastrada@cftc.gov;* Peter A. Kals, Special Counsel, DCR, at 202–418–5466 or *pkals@cftc.gov;* Jocelyn Partridge, Special Counsel, DCR, at 202–418–5926 or *jpartridge@cftc.gov;* Tracey Wingate, Special Counsel, DCR, at 202–418–5319 or *twingate@cftc.gov;* or Kathryn L. Ballintine, Attorney-Advisor, DCR, at 202–418–5575 or *kballintine@cftc.gov,* in each case, at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. Regulatory Framework for Registered DCOs

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').[1] Title VII of the

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be

Dodd-Frank Act, entitled the ''Wall Street Transparency and Accountability Act of 2010,'' [2] amended the Commodity Exchange Act (''CEA'' or the ''Act'') [3] to establish a comprehensive regulatory framework for over-the-counter (''OTC'') derivatives, including swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) Providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing mandatory clearing and trade execution requirements on clearable swap contracts; (3) creating rigorous recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to, among others, all registered entities and intermediaries subject to the Commission's oversight.

Section 725(c) of the Dodd-Frank Act amended Section 5b(c)(2) of the CEA, which sets forth core principles that a DCO must comply with in order to register and maintain registration with the Commission. The core principles were originally added to the CEA by the Commodity Futures Modernization Act of 2000,[4] and, in 2001, the Commission issued guidance on DCO compliance with these core principles.[5] However, in furtherance of the goals of the Dodd-Frank Act to reduce risk, increase transparency, and promote market integrity, the Commission, pursuant to the Commission's enhanced rulemaking authority,[6] withdrew the 2001 guidance and adopted regulations establishing standards for compliance with the DCO core principles.[7] As noted in the preamble to the final rule for Subpart A and Subpart B of part 39 of the Commission's regulations (''Subpart A'' and ''Subpart B,'' respectively), the implementing regulations of the DCO core principles, the Commission sought to provide legal certainty for market participants, strengthen the risk management practices of DCOs, and increase overall confidence in the financial system by assuring ''market participants and the public that DCOs are meeting minimum risk management standards.'' [8]

B. Designation of DCOs as Systemically Important Under Title VIII of the Dodd-Frank Act

Title VIII of the Dodd-Frank Act, entitled ''Payment, Clearing, and Settlement Supervision Act of 2010,'' [9] was enacted to mitigate systemic risk in the financial system and promote financial stability.[10] Section 804 of the Dodd-Frank Act requires the Financial Stability Oversight Council (''Council'') to designate those financial market utilities (''FMUs'') [11] that the Council determines are, or are likely to become, systemically important.[12]

In determining whether an FMU is systemically important, the Council uses a detailed two-stage designations process, using certain statutory considerations [13] and other metrics to assesses, among other things, ''whether possible disruptions [to the functioning of an FMU] are potentially severe, not necessarily in the sense that they themselves might trigger damage to the U.S. economy, but because such disruptions might reduce the ability of financial institutions or markets to perform their normal intermediation functions.'' [14] On July 18, 2012, the Council designated eight FMUs as systemically important under Title VIII.[15] Two of these designated FMUs are CFTC-registered DCOs [16] for which the Commission is the Supervisory Agency.[17]

C. Existing Standards for SIDCOs

Section 805 of the Dodd-Frank Act directs the Commission to consider relevant international standards and existing prudential requirements when prescribing risk management standards governing the operations related to payment, clearing, and settlement activities for FMUs that are (1) designated as systemically important by the Council and (2) engaged in activities for which the Commission is the Supervisory Agency.[18] More generally, Section 752 of the Dodd-Frank Act directs the Commission to consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of, among other things, swaps, futures, and options on futures.[19]

The Commission has previously reviewed the risk management

accessed at *http://www.cftc.gov/ucm/groups/public/@swaps/documents/file/hr4173_enrolledbill.pdf.*

[2] Section 701 of the Dodd-Frank Act.

[3] 7 U.S.C. 1 *et seq.*

[4] *See* Commodity Futures Modernization Act of 2000, Public Law 106–554, 114 Stat. 2763 (2000).

[5] *See* A New Regulatory Framework for Clearing Organizations, 66 FR 45604 (Aug. 29, 2001) (adopting 17 CFR Part 39, Appendix A).

[6] *See* Section 725(c)(2)(i) of the Dodd Frank Act (giving the Commission explicit authority to promulgate rules regarding the core principles pursuant to its rulemaking authority under Section 8a(5) of the CEA, 7 U.S.C. 12a(5)).

[7] *See* Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334 (Nov. 8, 2011).

[8] *Id.* at 69335.

[9] Section 801 of the Dodd-Frank Act.

[10] Section 802(b) of the Dodd-Frank Act.

[11] An FMU includes ''any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.'' Section 803(6)(A) of the Dodd-Frank Act.

[12] Section 804(a)(1) of the Dodd-Frank Act. The term ''systemically important'' means ''a situation where the failure of or a disruption to the functioning of a financial market utility . . . could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system of the United States.'' Section 803(9) of the Dodd-Frank Act. *See also* Authority to Designate Financial Market Utilities as Systemically Important, 76 FR 44763, 44774 (July 27, 2011) (final rule).

[13] Under Section 804(a)(2) of the Dodd-Frank Act, in determining whether an FMU is or is likely to become systemically important, the Council must take into consideration the following: (A) The aggregate monetary value of transactions processed by the FMU; (B) the aggregate exposure of an FMU to its counterparties; (C) the relationship, interdependencies, or other interactions of the FMU with other FMUs or payment, clearing or settlement activities; (D) the effect that the failure of or a disruption to the FMU would have on critical markets, financial institutions or the broader financial system; and (E) any other factors the Council deems appropriate.

[14] 76 FR at 44766.

[15] *See* Press Release, Financial Stability Oversight Council, Financial Stability Oversight Council Makes First Designations in Effort to Protect Against Future Financial Crises (July 18, 2012), *available at http://www.treasury.gov/press-center/press-releases/Pages/tg1645.aspx.*

[16] While Chicago Mercantile Exchange, Inc. (''CME''), ICE Clear Credit LLC (''ICE Clear Credit''), and The Options Clearing Corporation (''OCC'') are the CFTC-registered DCOs that were designated as systemically important by the Council, the CFTC is the Supervisory Agency only for CME and ICE Clear Credit, the SEC serves as OCC's Supervisory Agency.

[17] *See* Section 803(8)(A) of the Dodd-Frank Act (defining ''Supervisory Agency'' as the federal agency that has primary jurisdiction over a designated financial market utility under federal banking, securities or commodity futures laws).

[18] *See* Section 805(a)(2) of the Dodd-Frank Act. The Commission notes that under section 805 of the Dodd-Frank Act it also has the authority to prescribe risk management standards governing the operations related to payment, clearing, and settlement activities for FMUs that are designated as systemically important by the Council and are engaged in activities for which the Commission is the appropriate financial regulator.

[19] Section 752 of the Dodd-Frank Act, codified at 15 U.S.C. 8325, provides:

(a) In order to promote effective and consistent global regulation of swaps and security based swaps, the [CFTC], the Securities and Exchange Commission, and the prudential regulators (as that term is defined in section 1a(30) of the [CEA], as appropriate, shall consult and coordinate with foreign regulatory authorities on the establishment of international standards with respect to the regulation * * * of swaps * * * [and] swap entities * * *.

(b) In order to promote effective and consistent global regulation of contracts of sale of a commodity for future delivery and options on such contracts, the [CFTC] shall consult and coordinate with foreign regulatory authorities on the establishment of international standards with respect to the regulation of contracts of a sale of a commodity for future delivery and on options on such contracts.

standards set forth in part 39 of the Commission's regulations in light of relevant international standards and existing prudential requirements to identify those areas in which additional risk management standards for SIDCOs would be appropriate. In 2010, the Commission proposed enhanced financial resource requirements for SIDCOs that would have required a SIDCO to (1) maintain sufficient financial resources to meet the SIDCO's financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined financial exposure for the SIDCO in extreme but plausible market conditions,[20] and (2) only count the value of assessments, after a 30% haircut, to meet up to 20% of the resources required to meet obligations arising from a default by the clearing member creating the second largest financial exposure.[21] In addition, in 2011 the Commission proposed to improve system safeguards for SIDCOs by enhancing certain business continuity and disaster recovery procedures.[22]

Because efforts to finalize the PFMIs were ongoing at the time the Commission adopted certain amendments to part 39 applicable to DCOs, rules specific to SIDCOs could have put SIDCOs at a competitive disadvantage vis-à-vis foreign central counterparties (''CCPs'') not yet subject to comparable rules. Moreover, at the time, because no DCO had been designated as systemically important by the Council, the Commission concluded it would be premature to finalize the SIDCO regulations in the Derivatives Clearing Organization General Provisions and Core Principles adopting release.[23] Instead, the Commission decided, consistent with Section 805(a)(1) of the Dodd-Frank Act,[24] to monitor domestic and international developments concerning CCPs and reconsider the proposed SIDCO regulations in light of such developments. In 2013, after careful consideration of the comments on the 2010 proposed SIDCO rules and in light of domestic and international market and regulatory developments, the Commission finalized these proposed regulations in a manner consistent with the PFMIs.[25] Specifically, in the final rules the Commission amended part 39 by creating a Subpart C and adding regulations that (1) increased the minimum financial resource requirements for SIDCOs, (2) restricted the use of assessments by SIDCOs in meeting such financial resource obligations, (3) enhanced the system safeguards requirements for SIDCOs, and (4) granted the Commission special enforcement authority over SIDCOs pursuant to Section 807 of the Dodd-Frank Act.[26]

D. DCO Core Principles and Regulations for Registered DCOs

As noted above, in order to register and maintain registration status with the Commission, DCOs must comply with all of the DCO core principles set forth in Section 5b(c)(2) of the CEA, as amended by Section 725 of the Dodd-Frank Act, as well as all applicable Commission regulations. However, for purposes of this proposal, the Commission would like to highlight the following requirements set forth in the core principles and related Commission regulations: Core Principle B (Financial Resources) and regulations 39.11 and 39.29; Core Principle D (Risk Management) and regulation 39.13; Core Principle G (Default Rules and Procedures) and regulation 39.16; Core Principle I (System Safeguards) and regulations 39.18 and 39.30; Core Principle L (Public Information) and regulation 39.21; Core Principle O (Governance Fitness Standards); Core Principle P (Conflicts of Interest); and Core Principle Q (Composition of Governing Boards).

1. Core Principle B: Financial Resources

Core Principle B requires DCOs to have ''adequate financial, operational, and managerial resources, as determined by the Commission, to discharge each responsibility of the [DCO].'' [27] Specifically, Core Principle B requires a DCO to possess financial resources that, at a minimum, exceed the total amount that would enable the DCO to meet its financial obligations to its clearing members, notwithstanding a default by the clearing member creating the largest financial exposure for the DCO in extreme but plausible market conditions and to cover its operating costs for a period of one year, as calculated on a rolling basis. Regulation 39.11 codifies these minimum requirements for all DCOs.[28] Pursuant to regulation 39.29, however, a SIDCO that is systemically important in multiple jurisdictions or that is involved in activities with a more-complex risk profile must maintain financial resources sufficient to enable it to meet its financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined financial exposure for the SIDCO in extreme but plausible market conditions.[29]

2. Core Principle D: Risk Management

Core Principle D requires a DCO to ensure that it possesses the ability to manage the risks associated with discharging the responsibilities of the DCO through the use of appropriate tools and procedures. It further requires a DCO to measure its credit exposures to each clearing member not less than once each business day and to monitor each such exposure periodically during the business day. Core Principle D also requires a DCO to limit its exposure to potential losses from defaults by clearing members through margin requirements and other risk control mechanisms, to ensure that the DCO's operations would not be disrupted and non-defaulting clearing members would not be exposed to losses that non-defaulting clearing members cannot anticipate or control. Finally, Core Principle D provides that a DCO must require margin from each clearing member sufficient to cover potential exposures in normal market conditions and that each model and parameter used in setting such margin requirements must be risk-based and reviewed on a regular basis. Regulation 39.13

[20] Financial Resources Requirements for Derivatives Clearing Organizations, 75 FR 63113, at 63119 (Oct. 14, 2010) (notice of proposed rulemaking).

[21] *Id.*

[22] *See* Risk Management Requirements for Derivatives Clearing Organizations, 76 FR 3697, 3726–3727 (Jan. 20, 2011) (notice of proposed rulemaking). The proposal also implemented special enforcement authority over SIDCOs that, pursuant to section 807(c) of the Dodd-Frank Act, would have granted the Commission authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act in the same manner and to the same extent as if the SIDCO were an insured depository institution and the Commission were the appropriate federal banking agency for such insured depository institution. *See* 76 FR at 3727.

[23] *See* 76 FR at 69352.

[24] The Commission notes again that Section 805(a)(1) of the Dodd-Frank Act requires the Commission to consider international standards in promulgating risk management rules.

[25] Enhanced Risk Management Standards for Systemically Important Derivatives Clearing Organizations, (final rule published in the **Federal Register** August 15, 2013) (''SIDCO Final Rule'').

[26] Id.

[27] Section 5b(c)(2)(B) of the CEA, 7 U.S.C. 7a–1(c)(2)(B).

[28] Specifically, regulation 39.11 requires registered DCOs to maintain financial resources sufficient to cover a wide range of potential stress scenarios, which include, but are not limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions, otherwise known as ''Cover One.''

[29] Financial resources sufficient to cover the default of the two participants creating the largest credit exposure in extreme but plausible circumstances is known as ''over two.'' *See also infra* note 70.

establishes the requirements that a DCO must meet in order to comply with Core Principle D, including documentation requirements, the methodology for the calculation and coverage of margin requirements, and the criteria and timing of stress tests that a DCO must conduct.[30]

3. Core Principle G: Default Rules and Procedures

Core Principle G requires a DCO to have rules and procedures designed to allow for the efficient, fair, and safe management of events during which clearing members become insolvent or otherwise default on their obligations to the DCO. In addition, Core Principle G requires a DCO to clearly state its default procedures, make its default rules publicly available, and ensure that it may take timely action to contain losses and liquidity pressures and to continue meeting its obligations. Regulation 39.16 establishes the minimum requirements that a DCO must meet in order to comply with Core Principle G, including the requirements for the DCO's default management plan and the procedures for dealing with the default and insolvency of a clearing member.

4. Core Principle I: System Safeguards

Core Principle I requires a DCO to establish and maintain a program of risk analysis and oversight that identifies and minimizes sources of operational risk through the development of appropriate controls and procedures, and automated systems that are reliable, secure, and have adequate scalable capacity. Core Principle I also requires that the emergency procedures, back-up facilities, and disaster recovery plans that a DCO is obligated to establish and maintain specifically allow for the timely recovery and resumption of the DCO's operations and the fulfillment of each obligation and responsibility of the DCO. Finally, Core Principle I requires that a DCO periodically conduct tests to verify that the DCO's back-up resources are sufficient to ensure daily processing, clearing, and settlement. Regulation 39.18 delineates the minimum requirements that a DCO must satisfy in order to comply with Core Principle I, including a recovery time objective of the next business day. In addition, regulation 39.30 requires a SIDCO to have a business continuity and disaster recovery plan with a recovery time objective of not later than two hours following the disruption. Regulation 39.30 also requires a SIDCO to have geographic diversity in the resources used to enable the SIDCO to meet its recovery time objective.

5. Core Principle L: Public Information

Core Principle L requires a DCO to provide market participants sufficient information to enable the market participants to identify and evaluate accurately the risks and costs associated with using the DCO's services. More specifically, a DCO is required to make available to market participants information concerning the rules and operating and default procedures governing its clearing and settlement systems and also to disclose publicly and to the Commission the terms and conditions of each contract, agreement, and transaction cleared and settled by the DCO; each clearing and other fee charged to members; the DCO's margin-setting methodology; daily settlement prices; and other matters relevant to participation in the DCO's clearing and settlement activities. Regulation 39.21 sets forth the requirements a DCO must meet in order to comply with Core Principle L and details the information to be disclosed to the public and requirements regarding the method and timing of such disclosure.

6. Core Principle O: Governance Fitness Standards

Core Principle O requires a DCO to establish transparent governing arrangements to both fulfill public interest requirements and to permit the consideration of the views of owners and participants. In addition, Core Principle O requires a DCO to establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the DCO, any other individual or entity with direct access to the settlement or clearing activities of the DCO, and affiliated parties.

7. Core Principle P: Conflicts of Interest

Core Principle P requires a DCO to establish and enforce rules to minimize conflicts of interest in the decision making process of the DCO. Core Principle P further requires a DCO to establish a process for resolving conflicts of interest.

8. Core Principle Q: Composition of Governing Boards

Core Principle Q requires a DCO to ensure that the composition of the governing board or committee of the DCO includes market participants.

E. PFMIs

1. Overview

In the SIDCO Final Rule, the Commission determined that, for purposes of meeting its obligation pursuant to Section 805(a)(2)(A) of the Dodd-Frank Act, the PFMIs, which were developed by CPSS–IOSCO over a period of several years,[31] were the international standards most relevant to the risk management of SIDCOs.[32]

In February 2010, CPSS–IOSCO launched a review of the existing sets of international standards for financial market infrastructures (''FMIs'') in support of a broader effort by the Financial Stability Board (''FSB'') [33] to strengthen core financial infrastructures and markets by ensuring that gaps in international standards were identified and addressed.[34] CPSS–IOSCO endeavored to incorporate in the review process lessons from the 2008 financial crisis and the experience of using the existing international standards, as well as policy and analytical work by other international committees including the Basel Committee on Banking Supervision (''BCBS'').[35] The PFMIs replace CPSS–IOSCO's previous international standards applicable to CCPs,[36] and establish international risk management standards for FMIs, including CCPs, that facilitate clearing

[30] The Commission also requires that a DCO's actual coverage of its initial margin requirements meet an established confidence level of at least 99%, based on data from an appropriate historic time period. *See generally* 17 CFR 39.13(g)(2)(iii).

[31] *See* Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions, *Principles for Financial Market Infrastructures,* (April 2012) *available at http://www.iosco.org/library/pubdocs/pdf/IOSCOPD377.pdf. See also the Financial Stability Board June 2012 Third Progress Report on Implementation, available at http://www.financialstabilityboard.org/publications/r_120615.pdf* (Noting publication of the PFMIs as achieving ''an important milestone in the global development of a sound basis for central clearing of all standardised OTC derivatives'').

[32] In making this determination, the Commission noted that ''the adoption and implementation of the PFMIs by numerous foreign jurisdictions highlights the role these principles play in creating a global, unified set of international risk management standards for CCPs.'' *See* SIDCO Final Rule.

[33] The FSB is an international organization that coordinates with national financial authorities and international policy organizations to develop and promote effective regulatory, supervisory and other financial sector policies. *See generally http://www.financialstabilityboard.org.*

[34] PFMIs, ¶ 1.6.

[35] *Id.*

[36] The international standards for FMIs, prior to the publication of the PFMIs, included, the *Core Principles for Systemically Important Payment Systems* published by CPSS in 2001, the *Recommendations for Securities Settlement Systems* published by CPSS–IOSCO in 2001, and the *Recommendations for Central Counterparties* published by CPSS–IOSCO in 2004 (collectively all three are referred to as the ''CPSS–IOSCO Principles and Recommendations''). *See* PFMIs, ¶¶ 1.4–1.5.

and settlement.[37] In issuing the PFMIs, CPSS–IOSCO sought to strengthen and harmonize existing international standards and incorporate new specifications for CCPs clearing OTC derivatives.[38] The objectives of the PFMIs are to enhance the safety and efficiency of FMIs and, more broadly, reduce systemic risk andfoster transparency and financial stability.[39]

The PFMIs set out 24 principles which address the risk and efficiency of an FMI's operations.[40] Assessments of observance with the PFMIs focus also on the ''key considerations'' set forth for each of the principles.[41] While Subpart A and Subpart B incorporate the vast majority of the standards set forth in the PFMIs,[42] the Commission, which is a member of the Board of IOSCO, intends to implement rules and regulations that are fully consistent with the standards set forth in the PFMIs by the end of 2013. To that end, the Commission has recognized that in certain instances, the standards set forth in the PFMIs may not be fully covered by the requirements set forth in Subpart A and Subpart B. Thus, this rulemaking would revise Subpart C to address those gaps, specifically with respect to the following PFMI principles: Principle 2 (Governance); Principle 3 (Framework for the comprehensive management of risks); Principle 4 (Credit risk); Principle 6 (Margin); Principle 7 (Liquidity risk); Principle 9 (Money settlements); Principle 14 (Segregation and portability); Principle 15 (General business risk); Principle 16 (Custody and investment risks); Principle 17 (Operational risk); Principle 21 (Efficiency and effectiveness); Principle 22 (Communication procedures and standards); and Principle 23 (Disclosure of rules, key procedures, and market data).

[37] The PFMIs define a ''financial market infrastructure'' as a ''multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions.'' *See* PFMIs, ¶ 1.8.

[38] *See id.,* ¶ 1.2.

[39] *Id.,* ¶ 1.15.

[40] *See id.,* ¶ 1.19.

[41] *See* Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions Principles for Financial Market Infrastructures: Disclosure Framework and Assessment Methodology (Dec. 2012) (hereinafter ''Disclosure Framework and Assessment Methodology''), *available at http://www.iosco.org/library/pubdocs/pdf/IOSCOPD396.pdf.*

[42] Indeed, Subpart A and Subpart B were informed by the consultative report for the PFMIs. *See generally* 76 FR at 69334.

2. Principle 2: Governance

Principle 2 addresses the governance arrangements of an FMI.[43] Specifically, it states that the governance arrangements of an FMI should be ''clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system.'' [44] An FMI's governance arrangements must be documented and set forth ''direct lines of responsibility and accountability,'' which are disclosed to owners, regulators, clearing members and their customers, and the public.[45] In addition, an FMI must clearly specify the roles and responsibilities of the board of directors and management, ensure that the board of directors and management have appropriate experience, design procedures to identify and resolve conflicts of interest for members of the board of directors, and regularly review the performance of the board of directors as a whole and individual directors.[46] In order to ensure that the board of directors has the appropriate incentive to fulfill its multiple roles, the board must typically include non-executive board members.[47] Further, the FMI's risk management framework must be clear, documented and reflect the risk-tolerance policy, assign responsibility and accountability for risk decisions, and specify how decisions will be made in crises and emergencies.[48] Finally, Principle 2 requires the FMI's ''design, rules, overall strategy, and decisions to reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders,'' and requires that ''major decisions'' be ''clearly disclosed to relevant stakeholders'' and to the public when there is ''a broad market impact.'' [49]

3. Principle 3: Framework for the Comprehensive Management of Risks

Principle 3 addresses an FMI's risk management framework, requiring it to ''comprehensively manag[e] legal, credit, liquidity, operational, and other risks.'' [50] In addition, as part of its risk management framework, an FMI ''must regularly review'' and develop tools to address ''the material risks it bears from and poses to other entities . . . as a result of interdependencies,'' [51] and ''identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern.[52] Principle 3 further requires an FMI to ''assess the effectiveness of a full range of options for recovery or orderly wind-down'' and to ''prepare appropriate plans for its recovery or orderly wind-down as a result of that assessment.'' [53] An FMI is required to ''provide incentives'' so that its participants and their customers ''manage and contain the risks they pose to the FMI.'' [54] Finally, Principle 3 requires an FMI's risk management framework to be periodically reviewed.[55]

4. Principle 4: Credit Risk

Principle 4 addresses an FMI's credit risk, that is, the risk that a counterparty to the CCP will be unable to fully meet its financial obligations when due.[56] Generally, Principle 4 requires all FMIs to establish explicit rules and procedures to address any credit losses they may face as a result of an individual or combined default among its participants with respect to any of their obligations to the FMI.[57] These rules and procedures should also address how potentially uncovered credit losses would be allocated, how the funds an FMI may borrow from liquidity providers will be repaid, and how an FMI will replenish its financial resources that it may use during a stress event, such as a default, so that it can continue to operate in a safe and sound manner.[58] More specifically, Principle 4 states that ''a CCP should cover its current and potential future exposures to each participant fully with a high degree of confidence using margin and other prefunded financial resources.'' [59] Additionally, Principle 4 provides that a CCP involved in activities with a more complex risk profile [60] or that is

[43] The PFMIs define ''governance'' as ''the set of relationships between an FMI's owners, board of directors (or equivalent), management, and other relevant parties, including participants, authorities, and other stakeholders (such as participants' customers, other interdependent FMIs, and the broader market).'' PFMIs at Annex H: Glossary.

[44] *See* PFMIs at Principle 2.

[45] *Id.* at Principle 2, Key Consideration (hereinafter, ''K.C.'') 2.

[46] *Id.* at Principle 2, K.C. 3, 5.

[47] *Id.* at Principle 2, K.C. 4.

[48] *See id.* at Principle 2, K.C. 6.

[49] *Id.* at Principle 2, K.C. 7.

[50] PFMIs at Principle 3.

[51] PFMIs at Principle 3, K.C. 3.

[52] PFMIs at Principle 3, K.C. 4.

[53] *Id.*

[54] PFMIs at Principle 3, K.C. 2.

[55] PFMIs at Principle 3, K.C. 1.

[56] The PFMIs define ''credit risk'' as the risk that a counterparty, whether a participant or other entity, will be unable to meet fully its financial obligations when due, or at any time in the future. PFMIs at Annex H: Glossary.

[57] *See* PFMIs at Principle 4, K.C. 7.

[58] *See id.*

[59] *Id.* at Principle 4, K.C. 4.

[60] Activities ''with a more complex risk profile'' include clearing financial instruments that are characterized by discrete jump-to-default price changes or that are highly correlated with potential participant defaults. *Id.* at Explanatory Note (hereinafter, ''E.N.'') 3.4.19.

systemically important in multiple jurisdictions should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios, including, but not limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions.

5. Principle 6: Margin

Principle 6 addresses an FMI's margin requirements and requires a CCP to use ''an effective margin system that is risk-based and regularly reviewed'' to ''cover its credit exposures to its participants for all products.'' [61] Specifically, Principle 6 requires a CCP's margin system to take into account the ''risks and particular attributes of each product, portfolio and market that it serves'' and be calibrated accordingly.[62] Further, a CCP's margin system must have reliably sourced and timely price data.[63] A CCP's regular reviews of its margin models and coverage must include, at minimum, (i) rigorous daily backtesting, (ii) monthly sensitivity analyses, and (iii) regular ''assessment of the theoretical and empirical properties'' of the margin models, which consider a wide range of possible market conditions ''including the most-volatile periods that have been experienced by the markets it serves and extreme changes in the correlation between prices.'' [64] Principle 6 also states that ''[a] CCP should have the authority and operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants.'' [65]

6. Principle 7: Liquidity risk

Principle 7 addresses the risk that an FMI may not have sufficient funds to meet its financial obligations as and when due.[66] Specifically, Principle 7 provides that an FMI manage its liquidity risks from a variety of sources, including participants, settlement banks, custodian banks, and liquidity providers [67] on an ongoing and timely basis [68] and regularly test the sufficiency of liquidity resources through rigorous stress testing.[69] Additionally, Principle 7 provides that the minimum liquid resource requirement for CCPs should be resources that would permit Cover One, but a CCP that is involved in activities with a more complex risk profile or that is systemically important in multiple jurisdictions should ''maintain additional liquidity resources sufficient to cover a wider range of potential stress scenarios,'' including resources that would permit Cover Two.[70] Principle 7 also sets forth specifications for qualifying liquidity resources which may be used to meet the minimum liquid resource requirement.[71]

7. Principle 9: Money Settlements

Principle 9 addresses money settlements, stating that an FMI should minimize and strictly control the credit and liquidity risk arising from the use of commercial bank money.[72] In other words, an FMI should ''monitor, manage, and limit its credit and liquidity risks arising from commercial settlement banks,'' by (i) establishing and monitoring ''adherence to strict criteria for its settlement banks that take into account of, among other things, their regulation and supervision, creditworthiness, capitalization, access to liquidity, and operational reliability;'' [73] and (ii) monitoring and managing ''the concentration credit and liquidity exposures to its commercial settlement banks.'' [74]

8. Principle 14: Segregation and Portability

Principle 14 addresses segregation and portability, stating that ''a CCP should have rules and procedures that enable the segregation and portability of a participant's customers and the collateral provided to the CCP with respect to those positions.'' [75] A CCP's segregation and portability rules should, at a minimum, ''effectively protect a participant's customers' positions and related collateral from the default or insolvency of that participant.'' [76] Further, Principle 14 states that a CCP's segregation and portability arrangements should be disclosed, including whether the protection provided for customer collateral is on an individual or omnibus basis and whether there are any ''constraints, such as legal or operational constraints'' that may impair its ability to segregate or port a participant's customers' positions and related collateral.'' [77]

9. Principle 15: General Business Risk

Principle 15 addresses general business risk, the inability of an FMI to continue as a going concern, requiring an FMI to ''hold sufficient liquid net assets funded by equity to cover potential general business losses.'' [78] The liquid net assets should be sufficient, at all times, ''to ensure a recovery or orderly wind-down of critical operations and services.'' [79] Specifically, ''an FMI should maintain a viable recovery or orderly wind-down plan'' that is supported by ''liquid net assets funded by equity equal to at least six months of current operating expenses.'' [80]

10. Principle 16: Custody and Investment Risk

Principle 16 addresses custody and investment risks, stating that an FMI should safeguard its own assets as well as the assets of its participants.[81] Specifically, the FMI should minimize the risk of loss on and delay in access to these assets.[82] In addition, the FMI's investments should be in instruments with minimal credit, market and liquidity risks.[83]

11. Principle 17: Operational Risk

Principle 17 addresses the risk of deficiencies in information systems or internal processes, human errors, management failures, or disruptions from external events that will result in the reduction or deterioration of services provided by the FMI.[84] Principle 17 states that ''[b]usiness continuity management should aim for timely recovery of operations and fulfillment [sic] of the FMI's obligations, including in the event of a wide-scale or

[61] PFMIs at Principle 6.

[62] *Id.* at Principle 6, K.C. 1.

[63] *See id.* at Principle 6, K.C. 2.

[64] *Id.* at Principle 6, K.C. 6.

[65] *Id.* at Principle 6, K.C. 4.

[66] The PFMIs define ''liquidity risk'' as ''the risk that a counterparty, whether a participant or other entity, will have insufficient funds to meet its financial obligations as and when expected, although it may be able to do so in the future.'' *Id.* at Annex H: Glossary.

[67] *See* PFMIs at Principle 7, K.C. 1.

[68] *See* PFMIs at Principle 7, K.C. 2.

[69] *See* PFMIs at Principle 7, K.C. 9.

[70] PFMIs at Principle 7, K.C. 4. The term ''Cover Two'' refers to the requirement that a CCP maintain financial resources sufficient to enable it to meet its financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined financial exposure for the SIDCO in extreme but plausible market conditions.

[71] *See* PFMIs at Principle 7, K.C. 5–8.

[72] *Id.*

[73] *See* PFMIs at Principle 7, K.C. 3.

[74] *See id.*

[75] PFMIs at Principle 14.

[76] *Id.* at K.C. 1.

[77] PFMIs at Principle 14, K.C. 4.

[78] The PFMIs define ''general business risk'' as ''any potential impairment of the FMI's financial position (as a business concern) as a consequence of a decline in its revenues or an increase in its expenses, such that expenses exceed revenues and result in a loss that must be charged against capital.'' PFMIs at Annex H: Glossary.

[79] PFMIs at Principle 15.

[80] *Id.* at K.C. 3. Such liquid net assets used to support the recovery and orderly wind-down plan should be held in addition to the assets required to cover participant defaults and other risks. *Id.*

[81] PFMIs at Principle 16.

[82] *Id.*

[83] *Id.*

[84] PFMIs, ¶ 2.9.

major disruption.'' [85] Additionally, an FMI's business continuity plan ''should incorporate the use of a secondary site and should be designed to ensure that critical information technology (''IT'') systems can resume operations within two hours following disruptive events.'' [86]

12. Principle 21: Efficiency and Effectiveness

Principle 21 addresses the efficiency and effectiveness of an FMI. An FMI should be designed to meet the needs of its participants and the markets it serves, in particular, with regard to choice of clearing and settlement arrangement, operating structure, scope of products cleared or settled and integration of technology and procedures.[87] An effective CCP reliably meets its obligations in a timely manner and achieves the public policy goals of safety and efficiency for participants and the markets it serves.[88]

13. Principle 22: Communication Procedures and Standards

Principle 22 addresses communication procedures and standards. An FMI should use, or at a minimum accommodate, internationally accepted communication procedures and standards.[89] These include common sets of rules across systems for exchange messages, standardized messaging formats, and reference data standards for identifying financial instruments and counterparties.

14. Principle 23: Disclosure of Rules, Key Procedures, and Market Data

Principle 23 addresses the disclosure of an FMI's rules and procedures to participants and the public. An FMI should disclose its rules and procedures to participants, so that participants can have an ''accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI.'' [90] Further, the FMI should make disclosures to the public regarding fees, basic operational information, and other relevant information, such as the responses to the Disclosure Framework published by CPSS–IOSCO,[91] so that prospective participants can also assess the risks, fees, and other material costs incurred by participating in the FMI.[92]

[85] PFMIs at Principle 17.

[86] *Id.* at Principle 17, K.C. 6.

[87] PFMIs at Principle 21, K.C. 1.

[88] *Id.* at Principle 21, K.C. 2–3.

[89] PFMIs at Principle 22, K.C. 1.

[90] PFMIs at Principle 23.

[91] *See* Disclosure Framework and Assessment Methodology, *supra* note 41.

[92] *See* PFMIs at E.N. 3.23.1.

F. The Role of the PFMIs in International Banking Standards

The Commission notes that where a CCP is not prudentially supervised in a jurisdiction that has domestic rules and regulations that are consistent with the standards set forth in the PFMIs, the implementation of certain international banking regulations will have significant cost implications for that CCP and its market participants.

In July of 2012, the BCBS,[93] the international body that sets standards for the regulation of banks, published the ''Capital Requirements for Bank Exposures to Central Counterparties'' (''Basel CCP Capital Requirements''), which sets forth interim rules governing the capital charges arising from bank exposures to CCPs related to OTC derivatives, exchange traded derivatives and securities financing transactions.[94] The Basel CCP Capital Requirements create financial incentives for banks [95] to clear financial derivatives with CCPs that are licensed in a jurisdiction where the relevant regulator has adopted rules or regulations that are consistent with the standards set forth in the PFMIs. Specifically, the Basel CCP Capital Requirements introduce new capital charges based on counterparty risk for banks conducting financial derivatives transactions through a CCP.[96] These new capital charges relate to a bank's trade exposure and default fund exposure to a CCP.[97]

The capital charges for trade exposure are based upon a function multiplying exposure by risk weight. Risk weight is a measure that represents the likelihood that the loss to which the bank is exposed will be incurred, and the extent of that loss. The risk weight assigned under the Basel CCP Capital Requirements varies significantly depending on whether or not the counterparty is a qualified CCP (''QCCP'').[98] A QCCP is defined as an entity that (i) is licensed to operate as a CCP, and is permitted by the appropriate regulator to operate as such, and (ii) is prudentially supervised in a jurisdiction where the relevant regulator has established and publicly indicated that it applies to the CCP on an ongoing basis, domestic rules and regulations that are consistent with the PFMIs.[99] If a bank transacts through a QCCP acting either as (1) a clearing member of a CCP for its own account or for clients [100] or (2) a client of a clearing member that enters into an OTC derivatives transaction with the clearing member acting as a financial intermediary, then the risk weight is a flat 2% for purposes of calculating the counterparty risk.[101] If

[93] The BCBS is comprised of senior representatives of bank supervisory authorities and central banks from around the world including, Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. *See* Bank for International Settlements, Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems, December 2010 (revised June 2011), *available at http://www.bis.org/publ/bcbs189.htm*.

[94] *See Capital Requirements for Bank Exposures to Central Counterparties* (July 2012), *available at www.bis.org/publ/bcbs227.pdf*. The Basel CCP Capital Requirements are one component of Basel III, a framework that ''is part of a comprehensive set of reform measures developed by the BCBS to strengthen the regulation, supervision and risk management of the international banking sector.'' *See* Bank for International Settlement's Web site for compilation of documents that form the regulatory framework of Basel III, *available at http://www.bis.org/bcbs/basel3.htm*.

[95] ''Bank'' is defined in accordance with the Basel framework to mean a bank, banking group or other entity (*i.e.* bank holding company) whose capital is being measured. *See Basel III: A Global Regulatory Framework,* Definition of Capital, paragraph 51. The term ''bank,'' as used herein, also includes subsidiaries and affiliates of the banking group or other entity. The Commission notes that a bank may be a client and/or a clearing member of a DCO.

[96] *See* Basel CCP Capital Requirements, Annex 4, Section II, 6(i).

[97] Trade exposure is a measure of the amount of loss a bank is exposed to, based on the size of its position, given a CCP's failure. Under the Basel CCP Capital Requirements, trade exposure is defined to include the current and potential future exposure of a bank acting as either a clearing member or a client to a CCP arising from OTC derivatives, exchange traded derivatives transactions or securities financing transactions, as well as initial margin. *See* Basel CCP Capital Requirements, Annex 4, Section I, A: General Terms. Current exposure, includes variation margin that is owed by the CCP, but not yet been received by the clearing member or client. *Id.*

Default fund exposure is a measure of the loss a bank acting as a clearing member is exposed to arising from the use of its contributions to the CCP's mutualized default fund resources. *See* Basel CCP Capital Requirements, Annex 4, Section I, A: General Terms.

[98] *See id.* at Annex 4, Section IX, Exposures to Qualifying CCPs, paragraphs 110–119 (describing the methodology for calculating a bank's trade exposure to a qualified CCP); *see also id.* at paragraph 126 (describing methodology for calculating a bank's trade exposure to a non-qualifying CCP). ''A QCCP is defined as an entity that (i) is licensed to operate as a CCP, and is permitted by the appropriate regulator to operate as such, and (ii) is prudentially supervised in a jurisdiction where the relevant regulator has established and publicly indicated that it applies to the CCP on an ongoing basis, domestic rules and regulations that are consistent with the PFMIs.'' *See* Section I, A: General Terms of the Basel CCP Capital Requirements).

[99] *Id.* at Section I, A: General Terms.

[100] The term ''client'' as used herein refers to a customer of a DCO.

[101] *Id.* at Section IX: Central Counterparties, paragraphs 110 and 114. Client trade exposures are risk-weighted at 2% if the following two conditions are met: (1) The offsetting transactions are identified by the CCP as client transactions and

the CCP is non-qualifying, then risk weight is the same as a bilateral OTC derivative trade and the bank applies the corresponding bilateral risk-weight treatment, which is at least 20% if the CCP is a bank or as high as 100% if the CCP is a corporate institution.[102]

With respect to default fund exposure, whenever a clearing member bank is required to maintain capital for exposures arising from default fund contributions to a QCCP, the clearing member bank may apply one of two methodologies for determining the capital requirement: The risk-sensitive approach, or the 1250% risk weight approach.[103] The risk-sensitive approach considers various factors in determining the risk weight for a bank's default exposure to a QCCP such as (i) the size and quality of a QCCP's financial resources, (ii) the counterparty credit risk exposures of such a CCP, and (iii) the application of such financial resources via the CCP's loss bearing waterfall in the case one or more clearing members default.[104] The 1250% risk weight approach allows a clearing member bank to apply a 1250% risk weight to its default fund exposures to the QCCP, subject to an overall cap of 20% on the risk-weighted assets from all trade exposures to the QCCP.[105] In other words, banks with exposures to QCCPs have a cap on the capital charges related to their default fund exposure. In contrast, a clearing member bank with exposures to a non-qualified CCP must apply a risk weight of 1250% with no cap for default fund exposures.[106]

Thus, the Basel CCP Capital Requirements provide incentives for banks, including their subsidiaries and affiliates, to clear derivatives through CCPs that are QCCPs by setting (1) lower capital charges for OTC derivatives transacted through a QCCP and (2) significantly higher capital charges for OTC derivatives transacted through non-qualifying CCPs. The increased capital charges for transactions through non-qualifying CCPs may have significant business and operational implications for U.S. DCOs that operate internationally and are not QCCPs. Specifically, banks faced with such higher capital charges may transfer their OTC derivatives business away from such DCOs to a QCCP in order to benefit from the preferential capital charges provided by Basel CCP Capital Requirements. Alternatively, banks may reduce or discontinue their OTC business altogether. Banks may also pass through the higher costs of transacting on a non-qualifying DCO that result from the higher capital charges to their customers. Accordingly, customers using such banks as intermediaries may transfer their business to an intermediary at a QCCP. In short, a DCO's failure to be a QCCP may cause it to face a competitive disadvantage retaining members and customers.

G. Proposed Rulemaking Applicable to SIDCOs and Subpart C DCOs

As described in detail in section II below, this proposed rulemaking would create a new category of DCO, a Subpart C DCO. A Subpart C DCO would include any registered DCO that elects to become subject to the provisions in Subpart C of part 39 of the Commission's regulations (''Subpart C''). Further, this rulemaking would revise Subpart C so that Subpart C would apply to SIDCOs and Subpart C DCOs, and would include new or revised standards for governance, financial resources, system safeguards, default rules and procedures for uncovered losses or shortfalls, risk management, disclosure, efficiency, and recovery and wind-down procedures. These requirements would address any remaining gaps between the Commission's regulations and the PFMI standards. Thus, Subpart C, together with the provisions in Subpart A and Subpart B, would establish domestic rules and regulations that are consistent with the PFMIs. As such, because SIDCOs and Subpart C DCOs would have the requirements of Subpart A, Subpart B, and Subpart C applied to them on a continuing basis, SIDCOs and Subpart C DCOs would be QCCPs for purposes of the Basel CCP Capital Requirements.[107] The Commission requests comment on all aspects of the rules proposed herein, as well as comment on the specific provisions and issues highlighted in section II, below.

II. Discussion of Revised and Proposed Rules

A. Regulation 39.2 (Definitions)

The Commission proposes to amend regulation 39.2 by amending one definition and adding six definitions. First, the Commission proposes a technical amendment to the definition of ''systemically important derivatives clearing organization.'' The definition now describes a SIDCO as a registered DCO ''which has been designated by the [Council] to be systemically important . . . .'' The proposed definition would describe a SIDCO as a registered DCO ''which is currently designated . . . '' This revision is necessary to allow for the possibility that a systemic importance designation may be rescinded.[108]

Second, the Commission proposes to add a definition for the phrase ''activity with a more complex risk profile,'' to provide greater clarity as to the types of activities that would trigger a Cover Two financial resources requirement. The Commission proposes to define ''activity with a more complex risk profile'' to include clearing credit default swaps, credit default futures, and derivatives that reference either credit default swaps or credit default futures, as well as any other activity designated as such by the Commission. By permitting activities to be added by Commission action, the proposed definition provides the Commission with flexibility to address new and innovative market activities. The phrase ''activity with a more complex risk profile'' appears in regulation 39.29 (Financial resources requirements), which this rulemaking proposes to revise and renumber as regulation 39.33. The phrase also appears in PFMI Principles 4 (Credit risk) and 7 (Liquidity risk).

The Commission also proposes to add a definition for the term ''subpart C

collateral to support them is held by the CCP and/or clearing member, as applicable, under arrangements that prevent losses to the client due to the default or insolvency of the clearing member, or the clearing member's other clients, or the joint default or insolvency of the clearing member and any of its other clients and (2) relevant laws, regulations, contractual or administrative arrangements provide that the offsetting transactions with the defaulted or insolvent clearing member are highly likely to continue to be indirectly transacted through the CCP, or by the CCP, should the clearing member default or become insolvent.

However, in certain circumstances risk weight may increase. Specifically, if condition 1 is not met (*i.e.* where a client is not protected from losses in the case that the clearing member and another client of the clearing member jointly default or become jointly insolvent) but condition 2 is met, the banks trade exposure is risk-weighted at 4%. If neither condition 1 nor 2 is met, then the bank must capitalize its exposure to the CCP as a bilateral trade. *Id.* at paragraphs 115 and 116.

[102] *See* BCBS, *Consultative Document: Capitalisation of Bank Exposures to Central Counterparties,* paragraph 28 (Nov. 2011), *available at http://www.bis.org/publ/bcbs.206.htm.*

[103] *See* Basel CCP Capital Requirements, Annex 4, Section IX, paragraphs 121–125.

[104] *Id.* at paragraph 122. The Commission notes that the 1250% risk weight represents the reciprocal of the 8% capital ratio (which is the percentage of a bank's capital to its risk-weighted assets).

[105] *Id.* at paragraph 125.

[106] *Id.* at paragraph 127.

[107] *See* discussion of QCCP status *supra* Section I.F.

[108] *See* 76 FR at 44775 (finalizing 12 CFR 1320.13(b), which states that ''[t]he Council shall rescind a designation of systemic importance for a designated financial market utility if the Council determines that the financial market utility no longer meets the standards for systemic importance.'').

derivatives clearing organization.'' As proposed, a ''subpart C derivatives clearing organization'' would include any registered DCO that is not a SIDCO and that has elected to become subject to Subpart C.

In addition, the Commission proposes to add definitions for ''depository institution,'' ''U.S. branch and agency of a foreign banking organization,'' and ''trust company.'' A ''depository institution'' would have the meaning set forth in Section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)). A ''U.S. branch and agency of a foreign banking organization'' would mean the U.S. branch and agency of a foreign banking organization as defined in Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101). A ''trust company'' would mean a trust company that is a member of the Federal Reserve System, under Section 1 of the Federal Reserve Act (12 U.S.C. 221), but that does not meet the definition of ''depository institution.''

The Commission requests comment on these definitions. In particular, the Commission requests comment on the potential costs and benefits resulting from or arising out of the proposed definition of ''activity with a more complex risk profile.'' The Commission requests that, where possible, commenters provide both quantitative data and detailed analysis in their comments, particularly with respect to estimates of costs and benefits. In addition, the Commission requests comment on whether there are alternative definitions that would provide a more effective or efficient means for achieving consistency with the standards set forth by the PFMIs. The Commission requests that commenters include a detailed description of any such alternatives, and estimates of the costs and benefits of such alternatives.

B. Regulation 39.30 (Scope)

The Commission proposes to expand regulation 39.28 (and renumber it as regulation 39.30) so that Subpart C would apply to SIDCOs and Subpart C DCOs. As described above, the rules proposed in Subpart C address the gaps between Commission regulations and the standards set forth in the PFMIs.[109] As such, a DCO that is subject to the requirements of Subpart A, Subpart B, and Subpart C should meet the requirements for QCCP status and benefit from the lower capital charges on clearing member banks and bank customers of clearing members for exposures resulting from derivatives cleared through QCCPs.[110] Such a DCO may also be viewed more favorably by potential members or customers of members in that it would be seen to be held to international standards. Because of these potential benefits, the Commission proposes that a DCO that has not been designated to be systemically important should have the option to elect to become subject to Subpart C.[111]

With respect to SIDCOs, the Commission is committed to maintaining risk management standards that enhance the safety and efficiency of a SIDCO, reduce systemic risks, foster transparency and support the stability of the broader financial system.[112] To support financial stability, a SIDCO must operate in a safe and sound manner. If it fails to measure, monitor, and manage its risks effectively, a SIDCO could pose significant risk to its participants and the financial system more broadly.[113] The Commission shares the stated objectives of the PFMIs, namely to enhance the safety and efficiency of FMIs and, more broadly, reduce systemic risk and foster transparency and financial stability.[114] The PFMIs have been adopted and implemented by numerous foreign jurisdictions.[115] A global, unified set of international risk management standards for systemically important CCPs can help support the stability of the broader financial system and, for the reasons set forth in the discussion below, the Commission proposes that SIDCOs be required to comply with all of the requirements set forth in part 39 of the Commission's regulations, including the proposed standards set forth in Subpart C.

The Commission requests comment on the proposed rules. Specifically, and in light of the potential impact that a SIDCO's failure could have on the U.S. financial system, the Commission requests comment on the potential costs and benefits resulting from, or arising out of, requiring SIDCOs to comply with Subpart C. The Commission requests that, where possible, commenters provide quantitative data and detailed analysis in their comments, particularly with respect to estimates of costs and benefits. In addition, the Commission requests comment on whether there are more effective or efficient means for achieving consistency with the standards set forth by the PFMIs. The Commission requests that commenters include a detailed description of any such alternatives, and estimates of the costs and benefits of such alternatives.

C. Regulation 39.31 (Election To Become Subject to the Provisions of Subpart C)

As discussed above,[116] the Basel CCP Capital Requirements impose significantly higher capital charges on banks (including their subsidiaries and

[109] *See also supra* Section I.G.

[110] *See supra* Section I.F.

[111] As a technical matter, the Commission proposes to move existing paragraph (c) of renumbered regulation 39.30 (requiring a SIDCO to provide notice to the Commission in advance of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the SIDCO, in accordance with the requirements of regulation 40.10) to proposed new regulation 39.42. Because the other provisions of proposed regulation 39.30 would pertain exclusively to the scope of Subpart C, it would be appropriate for existing paragraph (c) to be codified in a separate regulation. *See infra* Section II.N for further detail.

[112] *See* SIDCO Final Rule (Discussion of risk management standards). *See also* Section 805(b) of the Dodd-Frank Act.

[113] *See supra* Section I.E.

[114] PFMIs ¶ 1.15.

[115] In Europe, the European Market Infrastructure Regulation and implementing technical standards entered into force on March 15, 2013, and establish standards for CCPs that are consistent with the PFMIs. See Commission Delegated Regulation (EU) No 153/2013, *available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:0041:0074:EN:PDF;* and Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC Derivatives, Central Counterparties and Trade Repositories, preamble paragraph 90, 2012 O.J. (L 201), *available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:201:FULL:EN:PDF.*

In Asia, Singapore has adopted the PFMIs into its financial regulations pertaining to FMIs. *See* Monetary Authority of Singapore, ''Supervision of Financial Market Infrastructures in Singapore,'' (January 2013), *available at http://www.mas.gov.sg/~/media/MAS/About%20MAS/Monographs%20and%20information%20papers/MASMonograph_Supervision_of_Financial_Market_Infrastructures_in_Singapore%202.pdf.*

In addition, Australia and Canada have publicly indicated their intent to adopt the PFMIs. *See* Reserve Bank of Australia, ''Consultation on New Financial Stability Standards,'' (August 2012), *available at http://www.rba.gov.au/payments-system/clearing-settlement/consultations/201208-new-fin-stability-standards/index.html;* Canadian Securities Administrators Consultation Paper 91–406 ''Derivatives: OTC Central Counterparty Clearing,'' (June 20, 2012), *available at http://www.osc.gov.on.ca/documents/en/Securities-Category9/csa_20120620_91–406_counterparty-clearing.pdf.*

In the United States, the SEC adopted a final rule that incorporates heightened risk management standards for CCPs that clear security-based swaps, based on, in part, the PFMIs' ''Cover Two'' standard for CCPs engaged in a more complex risk profile or that are systemically important in multiple jurisdictions. *See* 17 CFR 240.17Ad-22(b)(3) (2013) (requiring, in relevant part, SEC-registered clearing agencies (*i.e.,* CCPs) to maintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which they have the largest exposure in extreme but plausible conditions, provided that a security-based swap clearing agency, (*i.e.,* a CCP that clears security-based swaps) shall maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposure in extreme but plausible market conditions).

[116] *See* discussion *supra* Section I.F.

affiliates) that clear derivatives through CCPs that do not qualify as QCCPs. Because such charges could create incentives for banks to migrate their business to CCPs that are QCCPs or to avoid clearing, U.S. DCOs that operate internationally, but that are not QCCPs, may face a substantial competitive disadvantage. It would appear that DCOs that have not been designated by the Council as systemically important should have the ability to be held to international standards and to attain QCCP status.[117] Accordingly, the Commission is proposing regulation 39.31, which would provide a mechanism whereby a DCO that has not been designated by the Council as systemically important may elect to become subject to the provisions of Subpart C (*i.e.,* may ''opt'' to become subject to the regulations otherwise applicable only to SIDCOs) and, thereby, attain QCCP status. The Commission is also proposing procedures for withdrawing or rescinding that election.

The proposed amendments to Subpart C are intended to enhance the financial integrity and operational security of a SIDCO, which is critically important to safeguarding the stability of the U.S. financial system. Accordingly, the Commission proposes that a SIDCO should be subject to all of the requirements set forth in Subpart C. The Commission recognizes, however, that the overall balance of the costs and benefits of this enhanced regulatory regime, including the benefits accruing from QCCP status, and the costs associated with the implementation of Subpart C, may vary among DCOs that are not SIDCOs. The proposed ''opt-in'' regime allows DCOs that are not designated by the Council as systemically important to weigh for themselves the costs and benefits of attaining QCCP status.

The authority provided by Sections 5b(c)(2)(A) and 8a(5) of the CEA permits the Commission to establish and enforce regulations applicable to specified categories of DCOs that affirmatively elect to become subject to such regulations. Indeed, the Commission notes that it applies, and maintains the authority to enforce, regulations to persons and entities that voluntarily register in certain capacities.[118]

Authority for proposed regulation 39.31 is also supported by Section 752 of the Dodd- Frank Act,[119] which, as described above, directs the Commission to consult and coordinate with foreign regulatory authorities on effective and consistent global regulation of swaps and futures. Expanding the application of Subpart C to include DCOs that have not been designated by the Council as systemically important, but that nonetheless wish to become subject to regulations that are fully consistent with the standards set forth in the PFMIs, helps promote the international consistency called for in Section 752.

The mandate of Section 15 of the CEA further supports the adoption of a flexible approach, permitting some non-SIDCOs, but not all DCOs, to be subject to the additional regulations of Subpart C. As discussed below in more detail, the Commission is required by Section 15(a)(1) to consider the costs and benefits of any proposed regulation prior to promulgating it.[120] The benefits of enhanced financial integrity and operational security, the benefits accruing from being held to international standards and from QCCP status, and the costs associated with the implementation of Subpart C, may vary among DCOs that have not been designated as systemically important. DCOs that wish to compete internationally may find compliance with Subpart C a necessary cost to operate on a global stage. Similarly, DCOs that have banks or bank affiliates as members may find such compliance important to their membership and, in turn, to their own business. Accordingly, the Commission proposes that, at this time, DCOs that are not designated as systemically important should be provided with the opportunity to become subject to Subpart C based upon their assessments of the benefits and burdens associated with meeting the regulations set out in this Subpart C.

The Commission emphasizes however, that, under the present proposal, once a non-SIDCO elects to become subject to Subpart C, that non-SIDCO would, as of the effective date of the election, be subject to examination for compliance with Subpart C and to enforcement action for non-compliance. This status would continue until such time, if any, as the election is properly vacated as set forth in proposed regulation 39.31(e).

1. Regulation 39.31(a): Eligibility Requirements

Proposed regulation 39.31(a) sets forth the two categories of entities that would be eligible to elect to become subject to the provisions in Subpart C. A DCO that is not a SIDCO could request such election using the procedures set forth in proposed regulation 39.31(b). An entity applying for registration as a DCO pursuant to regulation 39.3 (''DCO Applicant'') could request the election in conjunction with its application for registration (''Registration Application'') using the procedures set forth in proposed regulation 39.31(c).

2. Regulation 39.31(b): Subpart C Election and Withdrawal Procedures for Registered DCOs

Proposed regulation 39.31(b) would establish the procedures by which a DCO that is already registered could elect to become subject to the provisions of Subpart C and the procedure by which it could withdraw that election. These procedures are intended to provide the Commission, clearing members, and customers (and regulators of such clearing members and customers) with assurance that the electing DCO will be held to and will be required to meet the standards set forth in Subpart C and in the PFMIs.

A DCO seeking to become subject to Subpart C would be required to file with the Commission a completed Subpart C Election Form, which is proposed to be included in part 39 of the Commission's regulations as Appendix B thereto. The proposed Subpart C Election Form would include three parts: (1) General Instructions, (2) Elections and Certifications, and (3) Disclosures and Exhibits. As discussed below, a DCO Applicant requesting an election to become subject to Subpart C also would be required to file a Subpart C Election Form with the Commission.[121]

In the Elections and Certifications portion of the Subpart C Election Form, a DCO would be required to affirmatively elect to become subject to Subpart C and to specify the date upon which it seeks to make its election effective. The effective date selected by the DCO could be no earlier than ten business days after the date the Subpart C Election Form is filed with the

[117] A DCO that is subject to the obligations contained in Subpart A, Subpart B, and Subpart C would be a QCCP.

[118] *See, e.g.,* Section 5b(b) of the CEA, 7 U.S.C. 7a–1(b) (voluntary registration as a DCO). The Commission recognizes that for such entities, the benefits of voluntary registration outweigh the costs of complying with the CEA and Commission regulations. Thus, the Commission permits such entities to register with it, which registration necessarily entails continuing supervision by the Commission, compliance with the CEA and Commission regulations, and Commission authority to enforce the CEA and its regulations against such entities.

[119] *See supra* note 19.

[120] *See infra* Section IV.C (Consideration of Costs and Benefits); *see also* Section 15(a)(1) of the CEA, 7 U.S.C. 19(a)(1), stating that, ''Before promulgating a regulation under this Act or issuing an order . . . the Commission shall consider the costs and benefits of the action of the Commission.''

[121] *See* discussion *infra* Section II.C.3.

Commission. The DCO, through its duly authorized representative,[122] would be required to certify that, as of the effective date of its election, the DCO will be in compliance with Subpart C and will remain in compliance unless and until the DCO rescinds its election pursuant to proposed regulation 39.31(e), discussed below.[123] The DCO also would be required to certify, through its duly authorized representative, that all information contained in the Subpart C Election Form is ''true, current and complete in all material respects.''

In the Disclosures and Exhibits portion of the Subpart C Election Form, a DCO would be required to provide a regulatory compliance chart that separately sets forth for proposed Subpart C regulations 39.32 through 39.39, citations to the relevant rules, policies and procedures of the DCO that address each such regulation and a summary of the manner in which the DCO will comply with each regulation. In addition, the DCO would be required to provide, in separate exhibits, any documents that demonstrate its compliance with proposed Subpart C regulations 39.32 through 39.36 and 39.39.[124] The Commission also proposes requiring the DCO to complete and to publish on the DCO's Web site the DCO's responses to the Disclosure Framework and to provide the Commission with the URL to the specific page where such responses can found.[125] The Disclosure Framework would be required to be completed in accordance with section 2.0 and Annex A thereof[126] and would be expected to fully explain how the DCO complies with the standards set forth in the PFMIs. As noted in section 2.5 of the Disclosure Framework, CPSS–IOSCO are in the process of developing a set of criteria for the disclosure by an FMI of quantitative information to enable stakeholders to evaluate FMIs and to make cross-comparisons (''Quantitative Information Disclosure''). The Commission proposes requiring the DCO, in the event that such criteria are published, to publish its Quantitative Information Disclosure on the DCO's Web site and to provide the Commission, on its Subpart C Election Form, the URL to the specific page where the Quantitative Information Disclosure may be found.

Pursuant to proposed regulation 39.31(b)(2), the filing of a Subpart C Election Form would not create a presumption that the Subpart C Election Form is materially complete or that supplemental information would not be required. The Commission could, prior to the effective date, request that the DCO provide supplemental information in order to process the DCO's Subpart C Election Form and the DCO would be required to file such supplemental information with the Commission. Proposed regulation 39.31(b)(3) also would require the DCO to promptly amend its Subpart C Election Form if it discovers a material omission or error in, or if there is a material change in, the information provided to the Commission in the Subpart C Election Form or other information provided in connection with the Subpart C Election Form.

Once a Subpart C Election Form is filed by a DCO, the Commission may permit the DCO's election to become subject to Subpart C to take effect as set forth in proposed regulation 39.31(b)(4) or may stay or deny the election under proposed regulation 39.31(b)(5). If the Commission stays or denies the election, it would issue written notification thereof to the DCO. Proposed regulation 39.31(b)(4) would provide that, unless the Commission stays or denies the DCO's election to become subject to Subpart C, such election would become effective upon the later of: (1)(i) The effective date specified by the DCO in its Subpart C Election Form or (ii) ten business days after the DCO files its Subpart C Election Form with the Commission or (2) or upon the effective date set forth in written notification from the Commission that it shall permit the election to take effect after a stay issued pursuant to proposed regulation 39.31(b)(5). The Commission may provide written acknowledgement of receipt of the DCO's Subpart C Election Form, as well as written acknowledgement that it has permitted the DCO's election to become subject to Subpart C to take effect and the effective date of that election.[127] The Commission emphasizes that, consistent with the certification required to be provided by a DCO as part of its Subpart C Election Form, a DCO, as of the date its election to become subject to Subpart C becomes effective, would be held to the requirements of Subpart C and the DCO would become subject to potential enforcement action by the Commission for failure to comply with any such requirements. To the extent that compliance with Subpart C would require the DCO to implement new rules or rule amendments, all such rules or rule amendments must be approved or permitted to take effect prior to the effective date.

Proposed regulation 39.31(b)(7) would allow a DCO that has submitted a Subpart C Election Form to withdraw the form at any time prior to the effective date specified therein by filing a notice thereof with the Commission. Withdrawal, however, would not be permitted on or after the specified effective date. A DCO that wishes to rescind its election to become subject to

[122] The signatures required by the ''Elections and Certifications'' portion of the proposed Subpart C Election Form would be required to be the manual signatures of the duly authorized representatives of the DCO described in the instructions. If the Subpart C Election Form is filed by a corporation, the Elections and Certifications would be required to be signed in the name of the corporation by a principal officer duly authorized; if filed by a limited liability company, they would be required to be signed in the name of the limited liability company by a manager or member duly authorized to sign on the limited liability company's behalf; if filed by a partnership, they would be required to be signed in the name of the partnership by a general partner duly authorized; and if filed by an unincorporated organization or association which is not a partnership, they would be required to be signed in the name of such organization or association by the managing agent (*i.e.,* a duly authorized person who directs or manages or who participates in the directing or managing of its affairs).

[123] *See* discussion *infra* Section II.C.5.

[124] This approach is consistent with the Form DCO that must be filed by DCO Applicants. The Form DCO requires DCO Applicants to submit to the Commission, as individual exhibits to the Form DCO, documents that demonstrate compliance with the requirements contained in Subpart B. 17 CFR Part. 39, Appendix A.

[125] This proposed obligation is consistent with the obligation under proposed regulation 39.37 of SIDCOs and Subpart C DCOs to complete and publically disclose their Disclosure Framework responses. *See* discussion *infra* Section II.I.

[126] Compliance with Section 2 and Annex A of the Disclosure Framework, collectively, would require the SIDCO or Subpart C DCO to provide ''a comprehensive narrative disclosure for each applicable [PFMI] principle with sufficient detail and context to enable the reader to understand the [SIDCO's or Subpart C DCO's] approach to observing the principle. In addition, the SIDCO or Subpart C DCO would be required to provide: (1) An executive summary of the key points from the disclosure [responses]; (2) a summary of the major changes since the last update of the disclosure[responses]; (3) a description of the SIDCO or Subpart C DCO and the markets it serves, including basic data and performance statistics on its services and operations; (4) a description of the SIDCO's or Subpart C DCO's general organization and governance structure; (5) an overview of the SIDCO's or Subpart C DCO's legal and regulatory framework; (6) an explanation of the SIDCO's or Subpart C DCO's system design and operation; (6) a list of publicly available resources, including those referenced in the disclosure [responses], that may help a reader understand the SIDCO or Subpart C DCO and its approach to observing each applicable PFMI principle. The narrative disclosure for each principle would be required to provide sufficient detail and context ''to enable a variety of readers with different backgrounds to understand the [SIDCO's or Subpart C DCO's] approach to observing the principle.'' *Id.*

[127] The decision to approve, to deny or to stay an election to become subject to Subpart C may be made by, and the related written notices may be provided by, the Director of the Division of Clearing and Risk pursuant to the authority delegated to him or her under the proposed amendment to regulation 140.94. *See infra* Section II.O.

Subpart C after the effective date would be permitted to do so using the procedures set forth in proposed regulation 39.31(e).[128]

3. Regulation 39.31(c): Election and Withdrawal Procedures for DCO Applicants

Proposed regulation 39.31(c) sets forth procedures through which a DCO Applicant may request to become subject to the provisions of Subpart C at the time that the DCO Applicant files its Registration Application. These procedures are intended to provide the Commission with a basis to evaluate the DCO Applicant's ability to comply with the provisions of Subpart C, and ultimately to provide the Commission, potential members and customers (and regulators of such members and customers) with assurance that the DCO Applicant will, once DCO registration has been granted, be held to and will, in fact, meet the standards set forth in Subpart C and in the PFMIs.

The Commission encourages DCO Applicants to make their election to become subject to Subpart C at the time that their Registration Application is filed. The Commission anticipates considerable overlap between the information and documentation contained in a Registration Application filed by a DCO Applicant and the information and documentation that would be required to be submitted to the Commission as part of a Subpart C Election Form. It would appear that simultaneous filings would allow Commission resources to be used more efficiently and effectively.

As proposed, a DCO Applicant requesting an election to become subject to Subpart C would make such request by attaching a Subpart C Election Form to the Form DCO that the DCO Applicant files pursuant to regulation 39.31. The certifications, disclosures, and exhibits that would be required to be provided by a DCO Applicant in the Subpart C Election Form would be the same as those required of registered DCOs,[129] except that the DCO Applicant would not specify an effective date for its election. Rather, the DCO Applicant would certify that, if the Commission permits its election to become subject to Subpart C to become effective, the DCO Applicant will be in compliance with the Subpart C regulations as of the date set forth in the Commission's notice thereof.

As with Subpart C Election Forms filed by registered DCOs, the filing of a Subpart C Election Form by a DCO Applicant would not create a presumption that the Subpart C Election Form is materially complete or that supplemental information would not be required. Under proposed regulation 39.31(c)(3), the Commission could, at any time during the Commission's review of the Subpart C Election Form, request that the DCO Applicant submit supplemental information in order for the Commission to process the DCO Applicant's Subpart C Election Form or its Registration Application and the DCO Applicant would be required to file such supplemental information. In addition, the DCO Applicant would be required by proposed regulation 39.31(c)(4) to promptly amend its Subpart C Election Form if it discovers a material omission or error in, or if there is a material change in, the information provided to the Commission in the Subpart C Election Form or other information provided in connection with the Subpart C Election Form.[130]

Under proposed regulation 39.31(c)(2), the Commission would review the Subpart C Election Form as part of the Commission's review of the DCO Applicant's Registration Application and the Commission, based upon its review and analysis of the information submitted in the Subpart C Election Form, could permit the DCO Applicant's election to take effect at the time it approves the Registration Application. The Commission would provide the DCO Applicant written notice of its determination to permit the election to become subject to Subpart C to become effective.[131] The Commission notes that any Registration Application for which there is a Subpart C Election Form pending would be evaluated against the standards set forth in Subpart C as well as the standards set forth in Subpart A and Subpart B in order for the Commission to approve the Registration Application. That is, the Commission would not approve any such Registration Application if the Commission determines that the DCO Applicant's election to become subject to Subpart C should not become effective because the DCO Applicant has not demonstrated its ability to comply with the requirements of Subpart C. The DCO Applicant would be permitted to withdraw the Subpart C Election Form as set forth in proposed regulation 39.31(c)(5), however, prior to the Commission's taking action on the Registration Application.

Proposed regulation 39.31(c)(5) would permit a DCO Applicant to withdraw a request to become subject to Subpart C by filing with the Commission a notice of the withdrawal. The DCO Applicant could withdraw its Subpart C Election Form without withdrawing its Form DCO.

4. Regulation 39.31(d)—Public Information

Proposed regulation 39.31(d) would provide that certain portions of the Subpart C Election Form will be considered public documents that may routinely be made available for public inspection. Such portions include: The Elections and Certifications and Disclosures in the Subpart C Election Form, the rules of the DCO, the regulatory compliance chart, and any other part of the Subpart C Election Form that is not covered by a request for confidential treatment subject to regulation 145.9. This proposal is consistent with the transparent treatment typically afforded materials submitted in connection with applications to become registered with the Commission.[132]

5. Regulation 39.31(e)—Rescission

Proposed 39.31(e) would permit a Subpart C DCO to rescind its election to comply with Subpart C by filing a notice of its intent to rescind the election with the Commission. The Commission proposes that DCOs that ''opt-in'' to Subpart C should be permitted to rescind, subject to certain conditions. These conditions are intended to provide the DCO's members and

[128] *See* discussion *infra* Section II.C.5.

[129] The DCO Applicant would be required to: (1) Certify that all information contained in its Subpart C Election Form is ''true, correct and complete in all material respects;'' (2) provide a regulatory compliance chart that separately sets forth, for proposed Subpart C regulations 39.32 through 39.39, citations to the relevant rules, policies and procedures of the DCO Applicant that address each such regulation and a summary of the manner in which the DCO Applicant will comply with each regulation; (c) provide, as separate exhibits to the Subpart C Election Form, any documents that demonstrate the DCO Applicant's compliance with proposed Subpart C regulations 39.32 through 39.36 and 39.39; (d) complete and publish on the DCO Applicant's Web site, the DCO's responses to the Disclosure Framework and provide the Commission with the URL to specific Web site page where such responses can found; and (e) if applicable, publish on the DCO Applicant's Web site the DCO Applicant's Quantitative Information Disclosure and provide the Commission the URL to the specific page where such disclosure may be found.

[130] Proposed regulations 39.31(c)(3) and 39.31(c)(4) are consistent with regulations 39.3(a)(2) and 39.3(a)(3) governing DCO application amendments and the submission of supplemental information in connection with a DCO application, respectively. 17 CFR 39.31(a)(2)–(3).

[131] The decision to permit a DCO to become subject to Subpart C may be made by, and notice thereof may be provided by, the Director of the Division of Clearing and Risk, as set forth in Commission regulation 140.94, as proposed to be amended herein. *See* discussion *infra* Section II.O.

[132] *See, e.g.,* 17 CFR 39.3(a)(5) (setting forth those portions of DCO Registration Applications that are considered public information).

customers, and the regulators of such members and customers, notice of, and time to take such actions as these entities may deem appropriate in light of, the DCO's decision to rescind its election. As discussed above, the Commission proposes that a SIDCO should be required to comply with the Subpart C provisions unless and until the SIDCO's designation as systemically important is rescinded by the Council.[133]

As proposed, the rescission of a DCO's election to become subject to Subpart C would become effective on the date specified by the Subpart C DCO in its notice of intent to rescind the Subpart C election, except that the rescission could not become effective any earlier than 90 days after the date the notice of intent to rescind is filed with the Commission. This proposed 90-day period is necessary to provide banks and other entities that wish to limit their cleared transactions to clearing solely through a QCCP (*e.g.,* because of the preferential Basel CCP Capital Requirements applicable to exposures to derivatives cleared through a QCCP) sufficient time to transfer their business to another Subpart C DCO or SIDCO. The Subpart C DCO would be required to comply with all of the provisions of Subpart C until such rescission is effective. The Commission also proposes requiring that the notice of intent to rescind include a certification that the Subpart C DCO has complied with and will comply with the notice requirements set forth in proposed regulation 39.31(e)(3).

Proposed regulation 39.31(e)(3)(i) would require a Subpart C DCO that files a notice of intent to rescind to provide periodic notices to each of its clearing members, and to have rules in place requiring each of its clearing members to provide such notices to each of the clearing member's customers. Specifically, a Subpart C DCO would be required to issue the following notices to its clearing members: (1) No later than the filing with the Commission of the notice of its intent to rescind its election to be subject to Subpart C, written notice that the Subpart C DCO intends to file such notice and the date that the rescission is intended to take effect, and (2) on the effective date of the rescission of its election to be subject to Subpart C, written notice that the rescission has become effective. These notices appear necessary to ensure that the Subpart C DCO's clearing members and customers are afforded sufficient time to consider and react to the implications of the Subpart C DCO's rescission of its election to be subject to Subpart C.

Proposed regulation 39.31(e)(3)(ii) would also require a Subpart C DCO to: (1) No later than the date it files a notice of its intent to rescind its election to be subject to Subpart C, provide notice to the general public of its intent to rescind such election; (2) on the effective date of the rescission of its election to be subject to Subpart C, provide written notice to the general public that the rescission has become effective; and (3) remove all references to its Subpart C DCO (and QCCP) status on its Web site and in all other materials that it provides to its clearing members and customers, other market participants, or members of the public. As discussed herein, because of the potential capital impact of transacting through a clearinghouse that is not a QCCP, these public notices would appear necessary to ensure that market participants are afforded sufficient time to consider and react to a Subpart C DCO's rescission of its election to be subject to Subpart C. However, the Commission proposes that the notices to the general public required by this subsection may be accomplished through publication on the Subpart C DCO's Web site.

In addition, the employees and representatives of the Subpart C DCO would be prohibited by proposed regulation 39.31(e)(3)(iii) from making any reference to the organization as a Subpart C DCO (or QCCP) on and after the date that the notice of its intent to rescind its election to become subject to Subpart C is filed. Because the QCCP recognition that accompanies Subpart C DCO status provides significant benefits to those transacting through a Subpart C DCO, it would be inappropriate and misleading to permit a DCO to hold itself out as a Subpart C DCO (or QCCP) once it has filed a notice of intention to rescind that status, even though the rescission is not immediately effective.

Proposed regulation 39.31(e)(4) provides that the rescission of a DCO's election to be subject to Subpart C would not affect the authority of the Commission concerning any activities or events occurring during the time that the DCO maintained its status as a Subpart C DCO. That is, the Subpart C DCO is continually obligated to, and would be subject to enforcement action for failure to, comply with the Subpart C provisions during the time that it was subject to Subpart C and maintained its Subpart C DCO status.

Proposed regulation 39.31(f) would provide that a SIDCO that is registered with the Commission, but whose designation of systemic importance is rescinded by the Council, shall immediately be deemed to be a Subpart C DCO. Such Subpart C DCO would be subject to the Subpart C provisions unless and until it elects to rescind its status as a Subpart C DCO.

The Commission requests comment on all aspects of proposed regulation 39.31 including, without limitation, the following:

(1) All aspects of the proposed Subpart C election eligibility requirements including, without limitation, the appropriateness of permitting DCO Applicants to request to become subject to Subpart C at the time of filing their Registration Applications. If DCO Applicants should not be permitted to request to become subject to Subpart C at the time of filing their Registration Applications, what would be the basis for such prohibition and what would be a suitable waiting period after registration with the Commission for making a Subpart C Election Form filing?

(2) All aspects of the proposed Subpart C Election Form including, without limitation, the following:

(a) The elections and certifications contained therein and the disclosures and exhibits required;

(b) whether DCOs and DCO Applicants should be permitted to amend or supplement their Subpart C Election Form; and

(c) possible incentives to encourage DCOs and DCO Applicants to file Subpart C Election Forms that are accurate and complete at the time of filing, in order to avoid amendments, supplements and withdrawals.

(3) Whether the Commission should require the Subpart C Election Form certifications to be made under penalty of perjury.

(4) All aspects of the proposed election and withdrawal procedures applicable to DCOs including, without limitation, the following:

(a) The appropriateness of permitting a DCO to designate the effective date of its status as a Subpart C DCO that is subject to the provisions of Subpart C;

(b) The appropriateness of the ten-business-day waiting period prior to a DCO's status as a Subpart C DCO becoming effective, any suggested alternative time frame, and the reasons why such alternatives would be preferable; and

(c) The circumstances under which it would be appropriate for the Commission to provide written acknowledgement of receipt of the Subpart C Election Form and/or the effective date of the DCO's Subpart C

[133] *See* 12 CFR 1320.13(b) (procedure for the Council to rescind a designation of systemic importance for a systemically important financial market utility).

DCO status, and the form of such acknowledgment.

(5) All aspects of the proposed election and withdrawal procedures applicable to DCO Applicants including, without limitation, the following:

(a) The prohibition against approving a Registration Application if a related Subpart C Election Form is pending and the Commission has determined that the DCO Applicant's request to become subject to Subpart C should not take effect;

(b) The circumstances under which it may be appropriate for the Commission to approve a Registration Application, but to stay or deny an election to become subject to Subpart C;

(c) If the Commission were to approve a Registration Application, but deny an election to become subject to Subpart C, whether the DCO Applicant should be required to wait a particular amount of time (and if so, what amount of time would be appropriate) before being permitted to elect to become subject to Subpart C pursuant to proposed 39.31(b);

(d) If an election to become subject to Subpart C could be stayed when a Registration Application is approved, whether the stay should be limited to a particular time period (and if so, what time period) after which the election must be permitted to take effect or be denied; and

(e) Any incentives, including but not limited to any waiting period after registration for eligibility to elect to become a Subpart C DCO, to encourage DCO Applicants to submit their Subpart C Election Form with their Registration Applications.

(6) The circumstances under which a DCO or DCO Applicant should be permitted to withdraw its Subpart C Election Form.

(7) All aspects of the proposed procedures for rescinding an election to become subject to Subpart C including, without limitation, the following:

(a) The information that must be contained with the notice of intent to rescind;

(b) The benefits and burden of the mandatory 90-day waiting period between the filing of the notice of intent to rescind and the date the rescission is effective;

(c) The timing, content and methods, and the costs and benefits, of providing the required notices to clearing members, the customers of clearing members, and the general public;

(d) The requirement to remove and refrain from references to the DCO as a Subpart C DCO (and QCCP) and the timing thereof;

(e) The burden of a Subpart C DCO's rescission on bank clearing members and the bank customers of such Subpart C DCO's clearing members, including the costs associated with unwinding and/or transferring positions; and

(f) Whether any alternative or additional conditions should be required of a Subpart C DCO beyond the proposed 90-day waiting period (and if so what alternative or additional conditions would be appropriate). For example, is 90 days sufficient time for clearing members and their customers to take such action as they may deem appropriate in light of such rescission?

(8) Any alternative approach to permitting a DCO or DCO Applicant to elect to become subject to Subpart C.

(9) The provision that a SIDCO whose status as a designated financial market utility is rescinded by the Financial Stability Oversight Council, be immediately deemed to be a Subpart C DCO, pending an election by the former SIDCO to rescind Subpart C DCO status.

(10) What additional disclosures should the Commission require or what other measures should the Commission take to help ensure that Subpart C DCOs obtain QCCP status?

(11) The costs and potential benefits resulting from or arising out of, permitting a DCO to elect to become subject to the provisions of Subpart C, any aspect of the procedures for allowing such election under proposed regulation 39.31, and any aspect of any suggested alternative procedures.

For each comment submitted, the Commission requests that each commenter please provide detailed rationale supporting the response, as well as quantitative data where practicable, particularly with respect to estimates of costs and benefits.

D. Regulation 39.32 (Governance for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The Commission proposes to add regulation 39.32 in order to implement DCO Core Principles O (Governance Fitness Standards), P (Conflicts of Interest), and Q (Composition of Governing Boards) for SIDCOs and Subpart C DCOs in a manner that is consistent with PFMI Principle 2 (Governance).[134]

As discussed above, DCO Core Principle O states that each DCO must establish governance arrangements that are transparent to fulfill public interest requirements and to permit the consideration of the views of owners and participants.[135] DCO Core Principle O also requires each DCO to establish and enforce appropriate fitness standards for (i) directors, (ii) members of any disciplinary committee, (iii) members of the DCO, (iv) any other individual or entity with direct access to the settlement or clearing activities of the DCO, and (v) any party affiliated with any entity mentioned in (i)–(v) above. In addition, DCO Core Principle P requires each DCO to establish and enforce rules to minimize conflicts of interest in the decision making process of the DCO, and DCO Core Principle Q states that each DCO must ensure that the composition of the governing board or committee of the DCO includes market participants. These core principles are substantively similar to PFMI Principle 2, which states that a CCP ''should have governance arrangements that are clear and transparent, promote the safety and efficiency of [the CCP], and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.'' Additionally, under PFMI Principle 2, a CCP should have procedures for managing conflicts of interest among board members and board members and managers should be required have ''appropriate skills,'' ''incentives,'' and ''experience.'' [136]

The governance requirements set forth in proposed regulation 39.32 are designed to enhance risk management and controls by promoting fitness standards for directors and managers, promoting transparency of governance arrangements, and making sure that the interests of a SIDCO's or Subpart C DCO's clearing members and, where relevant, customers are taken into account. Because of the potential impact that a SIDCO's failure could have on the U.S. financial markets, the Commission is proposing these requirements for SIDCOs. Moreover, it would be beneficial to Subpart C DCOs, their members and customers, and the financial system generally to apply these standards to Subpart C DCOs.

[134] In 2010 and 2011, the Commission proposed regulations concerning the governance of DCOs (the ''2010/2011 Proposals''). *See* Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest, 75 FR 63732 (Oct. 18, 2010); *see also* Governance Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities, 76 FR 722 (Jan. 8, 2011). The Commission notes that the regulations contained in the 2010/2011 Proposals are the subject of a separate rulemaking and, as such, the Commission does not intend to address or include those regulations in this rulemaking.

[135] *See supra* Section I.D.6.

[136] PFMIs at Principle 2, K.C. 4–5.

Specifically, subsection (a) (General rules) would require a SIDCO or Subpart C DCO to establish governance arrangements that: (1) Are written, clear and transparent, place a high priority on the safety and efficiency of the SIDCO or Subpart C DCO, and explicitly support the stability of the broader financial system and other relevant public interest considerations; (2) ensure that the design, rules, overall strategy, and major decisions of the SIDCO or Subpart C DCO appropriately reflect the legitimate interests of clearing members, customers of clearing members, and other relevant stakeholders; and (3) disclose, to an extent consistent with other statutory and regulatory requirements on confidentiality and disclosure: (i) Major decisions of the board of directors to clearing members, other relevant stakeholders, and to the Commission, and (ii) major decisions of the board of directors having a broad market impact to the public.[137]

Subsection (b) (Governance arrangements) would require the rules and procedures of a SIDCO or Subpart C DCO to: (1) Describe the SIDCO's or Subpart C DCO's management structure; (2) clearly specify the roles and responsibilities of the board of directors and its committees, including the establishment of a clear and documented risk management framework; (3) clearly specify the roles and responsibilities of management; (4) establish procedures for managing conflicts of interest among board members; and (5) assign responsibility and accountability for risk decisions and for implementing rules concerning default, recovery, and wind-down.

Subsection (c) (Fitness standards for the board of directors and management) would require that board members and managers have the appropriate experience, skills, incentives and integrity; risk management and internal control personnel have sufficient independence, authority, resources and access to the board of directors; and that the board of directors include members who are not executives, officers or employees of the SIDCO or Subpart C DCO or of their affiliates.

The Commission requests comment on all aspects of these proposals. The Commission is particularly interested in the following: In light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.32 reduce systemic risks? Would applying proposed regulation 39.32 to SIDCOs and to Subpart C DCOs contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.32 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.32 consistent with the PFMIs? If not, what changes need to be made to achieve such consistency? What alternatives to proposed regulation 39.32, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? Can proposed regulation 39.32 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential benefits and costs resulting from, or arising out of, requiring SIDCOs to comply with regulation 39.32? The Commission also requests comment on the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with regulation 39.32. In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits. The Commission requests that commenters include a detailed description of any alternatives to proposed regulation 39.32 and estimates of the costs and benefits of such alternatives.

E. Regulation 39.33 (Financial Resources Requirements for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

In 2013, the Commission finalized financial resource requirements for SIDCOs in a manner that parallels the financial resources standard in Principle 4 of the PFMIs.[138] Regulation 39.29 requires a SIDCO that is systemically important in multiple jurisdictions, or that is involved in activities with a more complex risk profile, to meet a Cover Two requirement, *i.e.* financial resources sufficient to enable it to meet its financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined financial exposure in extreme but plausible market conditions. Moreover, where a clearing member controls another clearing member or is under common control with another clearing member, regulation 39.29 also requires SIDCOs to treat affiliated clearing members as a single clearing member for the purposes of the Cover Two requirement. In addition, regulation 39.29 prohibits a SIDCO from using assessments as a financial resource to meet this Cover Two standard.

The Commission proposes to further amend regulation 39.29 to enhance financial resources requirements for SIDCOs and Subpart C DCOs and to achieve consistency with the relevant provisions of the PFMIs, in particular Principle 4 and Principle 7.

The Commission first proposes to renumber existing regulation 39.29 to 39.33 and to apply the requirements set forth therein to Subpart C DCOs. The Commission further proposes, for purposes of organization, deleting from paragraph (a)(1) the requirement that, where a clearing member controls another clearing member or is under common control with another clearing member, a SIDCO treat affiliated clearing members as a single clearing member (the ''Clearing Member Aggregation Requirement''). The Commission proposes to include such language in new paragraph (a)(4) to clarify that the Clearing Member Aggregation Requirement applies when a SIDCO or Subpart C DCO calculates its financial resources requirements under regulation 39.33(a) as well as its liquidity resources requirements under regulation 39.33(c).

The Commission also proposes amending paragraph (a) to state that the Commission shall, if it deems appropriate, determine whether a SIDCO or Subpart C DCO is systemically important in multiple jurisdictions. In making this determination, the Commission would, in order to limit such determinations to appropriate cases, review whether another jurisdiction had determined the SIDCO or Subpart C DCO to be systemically important according to a designations process that considers whether the foreseeable effects of a failure or disruption of the derivatives clearing organization could threaten the stability of each relevant jurisdiction's financial system. In addition, the Commission proposes amending paragraph (a) to state that the Commission shall also determine, if it deems appropriate, whether any of the activities of a SIDCO

[137] The provisions concerning transparency describe which information, including the identities of board members, should be disclosed to the public and/or the Commission.

[138] *See* SIDCO Final Rule.

or Subpart C DCO, in addition to clearing credit default swaps, credit default futures, and any derivatives that reference either, has a more complex risk profile and may take into consideration characteristics such as non-linear and discrete jump-to-default price changes.[139] In addition and in light of the proposed liquidity provisions discussed below, the Commission proposes a technical clarification to paragraph (a)(1) to make clear that such a SIDCO or Subpart C DCO must meet its ''credit exposure'' (rather than ''financial obligations'') to its clearing members notwithstanding a default by the two clearing members creating the largest ''aggregate credit'' (rather than ''combined financial'') exposure in extreme but plausible market conditions. The Commission also proposes amending paragraph (b) to clarify that the prohibition on including assessments as a financial resource applies to calculating financial resources needed to cover the default of the largest and, where applicable, second largest clearing member, in extreme but plausible circumstances.[140]

The Commission proposes adding paragraphs (c), (d), and (e) to address the liquidity of SIDCOs' and Subpart C DCOs' financial resources. These new paragraphs are intended to address the gaps between current part 39 requirements and standards set forth in Principle 7.[141]

Proposed paragraph (c)(1) would require a SIDCO or Subpart C DCO to maintain eligible liquidity resources that will enable the SIDCO or Subpart C DCO to meet its intraday, same-day, and multiday settlement obligations, as defined in regulation 39.14(a), with a high degree of confidence under a wide range of stress scenarios, including the default of the member creating the largest liquidity requirements under extreme but plausible circumstances. Maintaining resources that enable the DCO to meet these obligations will help prevent a SIDCO or Subpart C DCO from defaulting on its obligations to non-defaulting clearing members, which is particularly important for a SIDCO because of the potential impact that the failure of a SIDCO could have on the U.S. financial markets.

Proposed paragraph (c)(2) would require a SIDCO or Subpart C DCO to maintain liquidity resources that are sufficient to satisfy the obligations required by new paragraph (c)(1) in all relevant currencies for which the SIDCO or Subpart C DCO has settlement obligations to its clearing members. A SIDCO should be able promptly to meet its obligations in each relevant currency. If a SIDCO has sufficient funds to meet an obligation, but the funds are not in the correct currency, then the SIDCO cannot meet that obligation in a timely manner, which could lead to a disruption of the SIDCO's services. Such disruption could, in turn, have a significant impact on the financial stability of the U.S. economy.

Proposed paragraph (c)(3) would limit a SIDCO or Subpart C DCO to using only certain types of liquidity resources to satisfy the minimum liquidity requirement set forth in proposed paragraph (c)(1).[142] Among these ''qualifying liquidity resources'' are ''committed lines of credit,'' ''committed foreign exchange swaps,'' and ''committed repurchase agreements.'' ''Committed'' is intended to connote a legally binding contract under which a liquidity provider agrees to provide the relevant liquidity resource without delay or further evaluation of the DCO's creditworthiness, *e.g.,* a line of credit that cannot be withdrawn at the election of the liquidity provider during times of financial stress, or in the event of the default of a member of the SIDCO or Subpart C DCO.[143] The proposed list of these resources is consistent with those set forth in Principle 7. Also consistent with Principle 7, proposed paragraph (c)(1)(ii) would require a SIDCO or Subpart C DCO that is systemically important in multiple jurisdictions, or that is involved in activities with a more complex risk profile, to consider maintaining eligible liquidity resources that, at a minimum, will enable it to meet its intraday, same-day, and multiday settlement obligations, stress scenarios that include a default of the two clearing members creating the largest aggregate liquidity obligation for the DCO in extreme but plausible market conditions. The financial integrity of a SIDCOs and or Subpart C DCOs might be enhanced if it considers meeting this enhanced standard.

Under proposed paragraph (c)(3)(ii), a SIDCO or Subpart C DCO would be required to take appropriate steps to verify that its qualifying liquidity arrangements do not include material adverse change provisions and are enforceable, and will be highly reliable, even in extreme but plausible market conditions. This requirement is consistent with Principle 7.

Also consistent with Principle 7, under proposed paragraph (c)(4), if a SIDCO or Subpart C DCO maintains liquid financial resources in addition to those required to satisfy the Cover One requirement, then those resources should be in the form of assets that are likely to be saleable with proceeds available promptly or acceptable as collateral for lines of credit, swaps, or repurchase agreements on an *ad hoc* basis. In addition, Principle 7 provides and proposed paragraph 39.33(c)(4) requires that a SIDCO or Subpart C DCO should consider maintaining collateral with low credit, liquidity, and market risks that is typically accepted by a central bank of issue for any currency in which it may have settlement obligations, but shall not assume the availability of emergency central bank credit as a part of its liquidity plan.[144]

---

[139] The Commission's proposed amendment to regulation 140.94(a) would delegate the authority to make these determinations to the Director of the Division of Clearing and Risk.

[140] The preamble to the SIDCO Final Rule adopting release made clear that paragraph (b) applied to both Cover One and Cover Two, but the Commission has decided to add clarifying language to the regulation text. *See generally* SIDCO Final Rule.

[141] As discussed above in Section I.E.6, Principle 7, K.C. 2 requires a CCP to measure, monitor, and manage liquidity risk effectively. This includes the CCP maintaining sufficient liquid resources in all relevant currencies in order to effect same-day and, where applicable, intraday and multiday settlement of payment obligations in a wide range of potential stress scenarios, including the default of the participant that would create the largest aggregate payment obligations in extreme but plausible market conditions. In addition, Principle 7, K. C. 5 limits a CCP to counting only certain qualifying liquid resources for the purpose of meeting its financial resources requirement. These resources include: Cash in the currency of the requisite obligations, held either at the central bank of issue or at a creditworthy commercial bank; committed lines of credit; or high quality, liquid, general obligations of a sovereign nation. In addition, Principle 7, K. C. 4 states that a CCP that is systemically important in multiple jurisdictions or that is involved in activities with a more complex risk profile should consider maintaining sufficient qualifying liquid resources to meet the default of the two participants that would create the largest aggregate payment obligations in such circumstances. Principle 7, K. C. 7 also requires a CCP to monitor its liquidity providers, including clearing members, by undertaking due diligence to confirm that they have sufficient information to understand and manage their liquidity risks and have the capacity to perform as required under their commitments to the CCP.

[142] In determining whether the liquidity resources that are eligible under paragraph (c)(3) are sufficient to meet the obligation specified under paragraph (c)(1) (resources that ''enable'' the DCO to meet its settlement obligations), it is important to avoid double counting. For example, one may not count both a committed repurchase arrangement and U.S. Treasury Bills that would be used to collateralize that arrangement.

[143] Times of financial stress, and the event of the default of a member of the DCO are, of course, the times when reliable liquidity arrangements are most needed.

[144] It should be noted that the requirement of proposed paragraph (c)(4) that a SIDCO or Subpart C DCO consider maintaining certain types of collateral, like the requirement of proposed paragraph (c)(1)(ii), does not include a requirement as to the decision to be made following such consideration.

These provisions are designed to enhance the financial condition of SIDCOs and Subpart C DCOs and help reinforce stability.[145]

Pursuant to proposed paragraphs (d)(1)–(2), a SIDCO or Subpart C DCO would be required to monitor its liquidity providers in a manner consistent with Principle 7. Proposed paragraph (d)(1) would define ''liquidity provider'' to mean any of the following: (i) A depository institution, a U.S. branch and agency of a foreign banking organization, a trust company, or a syndicate of depository institutions, U.S. branches and agencies of foreign banking organizations, or a trust companies providing a line of credit, foreign exchange swap facility or repurchase facility to the SIDCO or Subpart C DCO; and (ii) Any other counterparty relied upon by a SIDCO or Subpart C DCO to meet its minimum liquidity resources requirement under paragraph (c) of this section. Moreover, under proposed paragraph (d)(5), a SIDCO with access to accounts and services at a Federal Reserve Bank is encouraged to use those services, where practical, to enhance its management of liquidity risk.[146] In addition, proposed paragraph (d)(4) would require a SIDCO or Subpart C DCO to regularly test its procedures for accessing its liquidity resources. Finally, pursuant to new subsection (e) and consistent with Principle 4, a SIDCO or Subpart C DCO would be required to document its supporting rationale for, and have appropriate governance arrangements relating to, the amount of total financial resources it maintains pursuant to regulation 39.33(a) and the amount of total liquidity resources it maintains pursuant to regulation 39.33(c).[147]

The Commission requests comment on all aspects of proposed regulation 39.33. The Commission is particularly interested in the following:

Are the proposed considerations in paragraph (a)(2) for determining whether a DCO is systemically important in multiple jurisdictions and in paragraph (a)(3) for determining whether it is engaged in activities with a more complex risk profile workable? Should alternative considerations be used?

In proposed paragraph (d)(4), should the Commission specify the frequency with which a SIDCO or Subpart C DCO must test its procedures for accessing its liquidity resources? In proposed paragraph (c)(3)(i)(E)(*1*) and (c)(3)(ii), the Commission permits highly marketable collateral to be used as a liquidity resource provided that such collateral is held in custody and investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions. As such, the Commission proposes to permit as a liquidity resource obligations of the United States Treasury or high quality, liquid, general obligations of a sovereign nation provided that such obligations are readily available and convertible into cash pursuant to prearranged and highly reliable funding arrangements. This is consistent with the language of the PFMIs.[148] Should the requirement be for funding arrangements that are committed? The Commission requests comment on whether there are any highly reliable funding arrangements that meet the requirements of the proposed regulations that are not committed funding arrangements.

In addition, in light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.33 reduce systemic risks? Would proposed regulation 39.33 contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.33 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.33 consistent with the PFMIs? Are there more effective or efficient means for achieving consistency with the liquidity standards set forth in Principle 7? If not, what changes need to be made to achieve such consistency? What alternatives to proposed regulation 39.33, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? The Commission requests that commenters include a detailed description of any such alternatives and estimates of the costs and benefits of such alternatives. Should regulation 39.33 provide that only a SIDCO can be deemed systemically important in multiple jurisdictions? Can proposed regulation 39.33 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential costs and benefits resulting from, or arising out of, requiring a SIDCO to comply with proposed regulation 39.33? What are the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with proposed regulation 39.33? In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits.

F. Regulation 39.34 (System Safeguards for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

In 2013, the Commission finalized regulation 39.30, which enhanced system safeguards requirements for SIDCOs for business continuity and disaster recovery, and included a two-hour recovery time objective (''RTO'') for SIDCOs.[149] As discussed in the adopting release, the two-hour RTO is consistent with Principle 17 of the PFMIs and increases the soundness and operating resiliency of the SIDCO, which in turn, increases the overall stability of the U.S. financial markets.[150] The Commission proposes renumbering regulation 39.30 as regulation 39.34 and amending the regulation to cover SIDCOs and Subpart C DCOs as well as a technical correction to paragraph (b) to make clear that subparagraphs (1), (2), and (3) concern each activity necessary for the daily processing, clearing, and settlement of existing and new contracts. Finally, to provide flexibility to address the practical burdens of obtaining the necessary physical and technological resources, and of organizing human resources, as appropriate to implement a two-hour RTO, the Commission proposes amending the regulation to allow the

[145] *See generally* Financial Stability Oversight Council 2012 Annual Report, Appendix A at 163 (finding that ''the contagion effect of a CME failure could impose material financial losses on CME's clearing members and other market participants (such as customers) and could lead to increased liquidity demands and credit problems across financial institutions, especially those that are active in the futures and options markets.'').

[146] Under Section 806(a) of the Dodd-Frank Act, 12 U.S.C. 5465(a), the Board may authorize a Federal Reserve Bank to establish and maintain an account for an FMU, which, as described above in Section I.B., includes a SIDCO. A SIDCO with access to accounts and services at a Federal Reserve Bank would be required to comply with related rules published by the Board of Governors of the Federal Reserve System. *See generally* Financial Market Utilities, 78 FR 14024 (Mar. 4, 2013) (proposal by the Board of rules to govern accounts held by designated FMUs).

[147] This provision is consistent with PFMI Principle 4, K.C. 4.

[148] See PFMI Principle 7, K.C. 5.

[149] *See* SIDCO Final Rule.

[150] *Id.*

Commission to, upon application, grant newly designated SIDCOs and Subpart C DCOs up to one year to comply with the provisions of regulation 39.34.

The Commission requests comment on all aspects of proposed regulation 39.34. The Commission is particularly interested in the following: Would applying proposed regulation 39.34 to Subpart C DCOs contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.34 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.34 consistent with the PFMIs? If not, what changes need to be made to achieve such consistency? What alternatives to proposed regulation 39.34, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? The Commission requests that commenters include a detailed description of any such alternatives and estimates of the costs and benefits of such alternatives. Can proposed regulation 39.34 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential costs and benefits resulting from, or arising out of, requiring a SIDCO to comply with proposed regulation 39.34? What are the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with proposed regulation 39.34? In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits.

G. Regulation 39.35 (Default Rules and Procedures for Uncovered Credit Losses or Liquidity Shortfalls (Recovery) for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The Commission is proposing regulation 39.35, which adds requirements pursuant to DCO Core Principle G, to address certain potential gaps between Commission regulations and Principles 4 and 7.[151] In particular, proposed regulation 39.35 is designed to protect SIDCOs, Subpart C DCOs, their members and customers, and the financial system more broadly by requiring SIDCOs and Subpart C DCOs to have plans and procedures to address credit losses and liquidity shortfalls beyond their prefunded resources, thus promoting their ability to promptly fulfill their obligations and continue to perform their critical functions.

Regulation 39.16 currently requires a DCO to adopt procedures permitting it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a default on the obligations of a clearing member to the DCO.[152] Proposed regulation 39.35 would require SIDCOs and Subpart C DCOs to adopt additional procedures to address certain issues arising from extraordinary stress events, including the default of one or more clearing members. Specifically, consistent with Principle 4 of the PFMIs, proposed paragraph (a) would require a SIDCO or Subpart C DCO to adopt rules and procedures addressing the following:

1. How the SIDCO or Subpart C DCO would allocate losses exceeding the financial resources available to the SIDCO or Subpart C DCO;

2. How the SIDCO or Subpart C DCO would arrange for the repayment of any funds the SIDCO or Subpart C DCO may borrow; and

3. How the SIDCO or Subpart C DCO would replenish any financial resources it may employ during such a stress event, so that the SIDCO or Subpart C DCO would be able to continue to operate in a safe and sound manner.

Consistent with Principle 7 of the PFMIs, proposed paragraph (b) would require a SIDCO or Subpart C DCO to establish rules and procedures enabling it to promptly meet all of its settlement obligations, on a same day and, where appropriate, on an intraday and multiday basis, in the context of the occurrence of either or both of the following scenarios: (i) Following an individual or combined default involving one or more clearing members' obligations to the SIDCO or Subpart C DCO or (ii) if there is an unforeseen liquidity shortfall exceeding the financial resources of the SIDCO or Subpart C DCO. Such rules and procedures should be established *ex ante* and may provide for the means of: increasing available assets (*e.g.* by using assessments) and/or reducing the size of liabilities (*e.g.* by engaging in variation margin haircuts or tear-ups); as well as obtaining liquidity from participants (*e.g.* through rules-based repurchase arrangements); employing a sequenced application of such tools; and replenishing any credit and liquidity resources that may be employed during a stress event.

Proposed regulation 39.35 addresses significant consequences that could result from a clearing member's default. Specifically, a DCO might not have sufficient financial resources following a clearing member's default either to cover the default or to fulfill its settlement obligations. Similarly, a DCO may be unable to fulfill its settlement obligations due to a liquidity shortfall exceeding its financial resources. In order to avoid the negative effect on its clearing members, their customers, and on the financial system more broadly of a DCO's failure promptly to meet its settlement obligations, it would be prudent for a DCO to have a recovery plan that addresses these scenarios and, given their importance to the U.S. financial system, it is critical for SIDCOs to have such plans. In addition, because this plan would be specified in the DCO's rules and/or procedures, it would be disclosed to clearing members, their customers, and the broader public. Such transparency would likely help clearing members, their customers, and other market participants properly allocate capital and other resources as well as facilitate the development of their own recovery plans.

The Commission requests comment on all aspects of these proposals. The Commission is particularly interested in the following: In light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.35 reduce systemic risks? Would proposed regulation 39.35 contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.35 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.35 consistent with the PFMIs? If not, what changes need to be made to achieve such consistency?

[151] DCO Core Principle G requires a DCO to have rules and procedures ''designed to allow for the efficient, fair, and safe management of events during which [clearing] members or participants—(I) become insolvent; or (II) otherwise default on the obligations of the members or participants to the [DCO].'' Each DCO ''is required to (I) clearly state the default procedures on the [DCO]; (II) make publicly available the default rules of the [DCO]; and (III) ensure that the [DCO] may take timely action—(aa) to contain losses and liquidity pressures; and (bb) to continue meeting each obligation of the DCO.'' *See supra* Section I.D.3.

[152] 17 CFR 39.16(c).

What alternatives to proposed regulation 39.35, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? Can proposed regulation 39.35 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential benefits and costs resulting from, or arising out of, requiring SIDCOs to comply with regulation 39.35? The Commission also requests comment on the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with regulation 39.35. In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits. The Commission requests that commenters include a detailed description of any alternatives to proposed regulation 39.35 and estimates of the costs and benefits of such alternatives.

H. Regulation 39.36 (Risk Management for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

Proposed regulation 39.36 would include additional risk management requirements for SIDCOs and Subpart C DCOs. As noted above, regulation 39.13 establishes the risk management requirements that a DCO would have to meet in order to comply with Core Principle D [153] including, among other things, specific criteria for stress tests that a DCO must conduct.[154] For example, regulation 39.13(h)(3)(ii) requires a registered DCO to, ''on a weekly basis, conduct stress tests with respect to each clearing member account, by house origin and by each customer origin, and each swap portfolio…under extreme but plausible market conditions.'' However, pursuant to this provision, a DCO has reasonable discretion in determining the methodology used to conduct such stress tests.

The Commission is proposing regulation 39.36 to address certain differences between Commission regulations and Principles 4, 6, 7, and 9.[155] In particular, proposed regulation 39.36 would require a SIDCO or Subpart C DCO to enhance its stress testing procedures in ways that will make it more likely that the SIDCO or Subpart C DCO will be able to understand the risks posed by its members, so that it can ensure that the relationship between its resources and obligations enables it to meet its obligations promptly.

Specifically, and consistent with Principle 4, proposed regulation 39.36(a)(1) would require a SIDCO or Subpart C DCO to perform stress testing, on a daily basis, of its financial resources using predetermined parameters and assumptions. In addition, proposed regulation 39.36(a)(2) would require a SIDCO or Subpart C DCO to perform comprehensive analyses of stress testing scenarios and underlying parameters to ascertain that they are appropriate for determining the SIDCO's or Subpart C DCO's required level of financial resources in current and evolving market conditions. Proposed regulation 39.36(a)(3) would also require a SIDCO or Subpart C DCO to perform the analyses in proposed regulation 39.36(a)(2) ''at least monthly when products cleared or markets served display high volatility, become less liquid, or when the size or concentration of positions held by clearing members increases significantly.'' A SIDCO or Subpart C DCO would also be required to ''evaluate [its] stress testing scenarios, models, and underlying parameters more frequently than once a month,'' where appropriate. For purposes of the analyses in proposed regulation 39.36(a)(1) and proposed regulation 39.36(a)(2), proposed regulation 39.36(a)(4) would require a SIDCO or Subpart C DCO to include the following stress scenarios for both defaulting clearing members' positions and possible price changes in liquidation periods: (i) Relevant peak historic price volatilities; (ii) shifts in other market factors including, as appropriate, price determinants and yield curves; (iii) multiple defaults over various time horizons; (iv) simultaneous pressures in funding and asset markets; and (v) a range of forward-looking stress scenarios in a variety of extreme but plausible market conditions. Moreover, proposed regulation 39.36(a)(5) would require each SIDCO and Subpart C DCO to establish procedures for reporting stress test results to its risk management committee or board of directors, as appropriate, and for using the results to assess the adequacy of, and to adjust the SIDCO's or Subpart C DCO's total financial resources. Finally, proposed regulation 39.36(a)(6) would require each SIDCO and Subpart C DCO to use the results of its financial resources stress testing to help make sure it meets the minimum financial resources requirement set forth in proposed regulation 39.33(a).

In addition, and consistent with Principle 7, the Commission is proposing stress testing requirements for liquidity resources that are analogous to the stress testing requirements for financial resources in proposed regulation 39.36(a), with the exception that the stress testing scenarios required by proposed regulation 39.36(c)(5) should consider the following: (i) All entities that might pose material liquidity risks to the DCO, including settlement banks, permitted depositories, liquidity providers, and other entities; (ii) intraday and multiday scenarios, where appropriate; (iii) inter-linkages between its clearing members and the multiple roles that they may play in in the SIDCO's or Subpart C DCO's risk management (*e.g.,* scenarios where a clearing member or its affiliate is also a liquidity provider); and (iv) the probability of multiple failures and contagion effect among clearing members.

Proposed regulation 39.36(c)(7) would require a SIDCO or Subpart C DCO to use the results of such stress tests to make certain that it meets the financial resources requirement set forth in regulation 39.33(a), and the liquidity resources requirements set forth in regulation 39.33(c). In addition, each SIDCO and Subpart C DCO would be required to perform, on an annual basis, a full validation of its financial risk management model and its liquid risk management model.

Proposed paragraphs (a), (c), (d), and (e) are important because stress testing scenarios, underlying risk factors that constitute such scenarios, and the relationship between different risk

[153] DCO Core Principle D requires each DCO to possess the ability to manage the risks associated with discharging the responsibilities of the DCO through the use of appropriate tools and procedures. It further requires each DCO to measure its credit exposures to each clearing member not less than once during each business day and to monitor each such exposure periodically during the business day. Core Principle D also requires each DCO to limit its exposure to potential losses from defaults by clearing members, through margin requirements and other risk control mechanisms, to reduce the risk that its operations would not be disrupted and that non-defaulting clearing members would not be exposed to losses that non-defaulting clearing members cannot anticipate or control. Finally, Core Principle D requires that the margin that the DCO requires from each clearing member be sufficient to cover potential exposures in normal market conditions, and that each model and parameter used in setting such margin requirements be risk-based and reviewed on a regular basis.

[154] *See supra* Section I.D.2.

[155] *See* discussion of Principles 4 and 6 *supra* Sections I.E.4, I.E.5.

factors are dynamic, and need to be updated due to changing market conditions. For example, use of relative, instead of absolute, changes in interest rates may be sufficient in a normal interest rate environment, but can lead to nonsensical estimates during low rate periods. In other words, changes in a particular risk factor during unusually volatile periods may be more extreme than any in the existing scenarios. In addition, it is important for SIDCOs and Subpart C DCOs to stress test both their financial resources and liquidity resources. While stress testing financial resources helps SIDCOs and Subpart C DCOs make sure they have the right amount, SIDCOs and Subpart C DCOs need access to liquid assets subject to arrangements in which they can promptly be convertible to cash to fulfill their obligations in a timely manner. As such, stress testing liquidity resources is a critical exercise for SIDCOs and Subpart C DCOs as such testing will help ensure that SIDCOs and Subpart C DCOs have enough resources to cover their obligations at the time and on the day that such obligations are due. Moreover, given the significant role SIDCOs play in the U.S. financial markets, it would appear that obtaining an in-depth understanding of potential liquidity needs through comprehensive stress testing under a broad range of scenarios is critical for a SIDCO's effective risk management.

As noted above, Principle 6 requires a CCP's margin system to take into account the ''risks and particular attributes of each product, portfolio and market that it serves'' and be calibrated accordingly.[156] In particular, Principle 6 requires a CCP to conduct a ''sensitivity analysis'' of its margin system at least monthly, and, more frequently, when appropriate. Accordingly, consistent with the standards set forth in Principle 6, paragraph (c) of proposed regulation 39.36 would require a SIDCO or Subpart C DCO to conduct a sensitivity analysis of its margin model at least monthly to analyze and monitor model performance and overall margin coverage. Moreover, paragraph (c) would require the sensitivity analysis to involve reviewing a wide range of parameter settings and assumptions that reflect possible market conditions in order to understand how the level of margin coverage might be affected by highly stressed market conditions. The parameters and assumptions used by a SIDCO or Subpart C DCO would be expected to capture a variety of historical and hypothetical conditions, including the most volatile periods that have been experienced by the markets served by the SIDCO or Subpart C DCO and extreme changes in the correlations between prices. In addition, the sensitivity analysis would be conducted on both actual and hypothetical positions, and would include testing of the abilities of the models or model components to produce accurate results using actual or hypothetical datasets and assessing the impact of different model parameter settings. The SIDCO or Subpart C DCO would also be required to evaluate potential losses in clearing members' proprietary positions and, where appropriate, customer positions. With respect to SIDCOs and Subpart C DCOs that are involved in activities with a more complex risk profile, the Commission proposes requiring such SIDCOs and Subpart C DCOs to take into consideration parameter settings that reflect the potential impact of the simultaneous default of two clearing members and consider the underlying credit instruments.[157] Proposed regulation 39.36(d) would require a SIDCO or Subpart C DCO regularly to conduct an assessment of the theoretical and empirical properties of its margin model for all products it clears, and proposed regulation 39.36(e) would require a SIDCO or Subpart C DCO to perform, on an annual basis, a full validation of its financial risk management model and its liquid risk management model. Moreover, under proposed paragraph (f), and consistent with Principle 16, custody and investment arrangements for a systemically important derivatives clearing organization's and subpart C derivatives clearing organization's own funds and assets would be subject to the same requirements as those specified in § 39.15 of this chapter for funds and assets of clearing members. This includes establishing standards and procedures that are designed to protect and ensure safety as specified in § 39.15(a), custody arrangements that minimize the risk of loss or of delay in access by the DCO as specified in § 39.15(c), and limitation of investments to instruments with minimal credit, market, and liquidity risks as specified in § 39.15(e).

It is vitally important that all DCOs obtain an in-depth understanding of their exposure to credit risk. As financial derivatives markets expand globally and counterparty credit risk increases in size and complexity, a DCO's ability to assess its exposure to credit risk becomes even more critical. These proposed regulations are intended to enhance the ability of SIDCOs and Subpart C DCOs to manage their risk exposure. Because a SIDCO plays a significant role in the financial markets, accurate and dynamic risk management is critical not only to the SIDCO, but also to the stability of the broader U.S. financial system.

Under proposed paragraph (g), and consistent with Principle 9, a SIDCO or Subpart C DCO would be required to monitor, manage, and limit its credit and liquidity risks arising from its settlement banks.[158] Specifically, a SIDCO or Subpart C DCO would be required to establish, and monitor adherence to, strict criteria for its settlement banks that take account of, among other things, their regulation and supervision, creditworthiness, capitalization, access to liquidity, and operational reliability. In addition, a SIDCO or Subpart C DCO would be required to monitor and manage the concentration of credit and liquidity exposures to its settlement banks. In order to mitigate both the probability of being exposed to a settlement bank's failure and the potential losses and liquidity pressures to which it would be exposed in the event of such a failure, each SIDCO and Subpart C DCO should, where reasonable and practicable, use multiple settlement banks instead of one and consider using different settlement banks for different functions, such as depositing funds, investing funds or holding liquidity resources.[159]

The Commission requests comment on all aspects of proposed regulation 39.36. The Commission is particularly interested in the following: In light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.36 reduce systemic risks? Would proposed regulation 39.36 contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.36 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.36 consistent with the PFMIs? If not, what changes need to be made to achieve such consistency? What alternatives to proposed

[156] *See supra* Section I.E.5.

[157] *See supra* Section II.E (discussing ''Cover Two'' in connection with revised regulation 39.33 (financial resources)). *See generally* PFMIs at E.N. 3.6.17.

[158] *See* discussion of Principle 9 *supra* Section I.E.7.

[159] *See* PFMIs at E.N. 3.9.5, 3.9.6. These issues could be avoided by a SIDCO to the extent it uses Federal Reserve Bank accounts and services pursuant to proposed regulation 39.33(d)(5).

regulation 39.36, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? Can proposed regulation 39.36 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential benefits and costs resulting from, or arising out of, requiring SIDCOs to comply with regulation 39.36? The Commission also requests comment on the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with regulation 39.36. In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits. The Commission requests that commenters include a detailed description of any alternatives to proposed regulation 39.36 and estimates of the costs and benefits of such alternatives.

I. Regulation 39.37 (Additional Disclosure for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The Commission is proposing regulation 39.37 to set forth additional public disclosure requirements for SIDCOs and Subpart C DCOs.[160] These requirements are intended to address differences between current requirements and PFMI Principles 14 and 23. In particular, proposed regulation 39.37 is designed to enable members of SIDCOs and Subpart C DCOs, their customers, and the general public to understand the risk of exposures to such DCOs, and to promote their ability to evaluate the quality of such DCOs, thereby enhancing competition and market discipline.

Specifically, proposed regulation 39.37 would require SIDCOs and Subpart C DCOs to disclose certain information to the public and to the Commission. First, consistent with Principle 23, a SIDCO or Subpart C DCO would be required to disclose its responses to the CPSS–IOSCO Disclosure Framework, discussed in section II.C.2, above. Further, a SIDCO or Subpart C DCO would be required to review and update at least every two years and following material changes to the SIDCO's or Subpart C DCO's system or its environment, its responses to the Disclosure Framework to ensure the continued accuracy and usefulness of the responses.[161] A material change to the SIDCO's or Subpart C DCO's system or environment is a change that would significantly change the accuracy and usefulness of the SIDCO's or Subpart C DCO's existing responses. Proposed regulation 39.37 would also require a SIDCO or Subpart C DCO to disclose, publicly and to the Commission, relevant basic data on transaction volume and values. This requirement is intended to be consistent with the Quantitative Information Disclosure that CPSS–IOSCO are in the process of developing.[162]

Also under proposed regulation 39.37, a SIDCO or Subpart C DCO would be required, consistent with Principle 14, to publish its rules, policies, and procedures describing whether customer funds are protected on an individual or omnibus basis and whether customer funds are subject to any legal or operational constraints that may impair the ability of the SIDCO or Subpart C DCO to segregate or port the positions and related collateral of a clearing member's customers. This additional transparency, particularly with respect to information regarding the protection of customer positions and related collateral, is important for the safe and effective transfer of positions and collateral in a default, resolution or insolvency scenario.[163] The Commission notes that the ability to transfer customer positions and associated collateral may reduce the need to liquidate positions, which liquidation could create substantial losses for customers and further disrupt the stability of the financial markets during times of market stress. In addition, these proposed additional disclosures will help regulators and market participants assess SIDCOs and Subpart C DCOs, particularly with respect to a SIDCO's or Subpart C DCO's compliance with the PFMIs. Because of a SIDCO's importance to the U.S. financial markets, it would appear that such public assessment will help provide comfort to market participants, which could prove to be a stabilizing force in times of severe market stress.

The Commission requests comment on all aspects of these proposals. The Commission is particularly interested in the following: In light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.37 reduce systemic risks? Would proposed regulation 39.37 contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.37 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.37 consistent with the PFMIs? If not, what changes need to be made to achieve such consistency? What alternatives to proposed regulation 39.37, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? Can proposed regulation 39.37 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential benefits and costs resulting from, or arising out of, requiring SIDCOs to comply with regulation 39.37? The Commission also requests comment on the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with regulation 39.37. In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits. The Commission requests that commenters include a detailed description of any alternatives to proposed regulation 39.37 and estimates of the costs and benefits of such alternatives.

J. Regulation 39.38 (Efficiency for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Cearing Organizations)

Consistent with Principle 21, proposed regulation 39.38 would require a SIDCO or Subpart C DCO to design efficiently and effectively its clearing and settlement arrangements,

[160] Public disclosure requirements for all registered DCOs are set forth in Regulation 39.21, which implements DCO Core Principle L (Public Information), and requires DCOs to provide to market participants sufficient information to enable them to identify and evaluate accurately the risks and costs associated with using the services of the DCO.

[161] Available at: *http://www.bis.org/publ/cpss106.pdf.*

[162] *See supra* section II.C.2. for a discussion of the Quantitative Information Disclosure (referencing section 2.5 of the CPSS–IOSCO Disclosure Framework).

[163] *See* PFMIs at E.N. 3.14.1.

operating structure and procedures, product scope, and use of technology. In addition, a SIDCO or Subpart C DCO would be required to establish clearly defined goals and objectives that are measurable and achievable, including goals with regards to minimum service levels, risk management expectations, and business priorities. Moreover, a SIDCO or Subpart C DCO would be required to facilitate efficient payment, clearing, and settlement by accommodating internationally accepted communication procedures and standards. The explanatory notes to Principle 21 provide that an efficient CCP has the required resources to perform its functions [164] and the efficiency of the CCP depends on the choice of clearing and settlement arrangement, operating structure, scope of products cleared or settled, and integration of technology and procedures.[165] In addition, the explanatory notes state that an effective CCP reliably meets its obligations in a timely manner and achieves the public policy goals of safety and efficiency for participants and the markets it serves.[166] Finally, consistent with Principle 22, proposed regulation 39.38(d) would require each SIDCO and Subpart C DCO to facilitate efficient payment, clearing, and settlement by accommodating internationally accepted communication procedures and standards.

It would appear to be prudent for SIDCOs and Subpart C DCOs to comply with such international standards of efficiency and effectiveness. A SIDCO or Subpart C DCO that is inefficient or ineffective could distort financial activity and market structure, increasing financial and other risks to the SIDCO's or Subpart C DCO's participants.[167] Although there is no DCO Core Principle specifically directed at efficiency and effectiveness, furthering these goals would improve compliance with Core Principle D (requiring, in part, that a DCO ensure it has the ability to manage the risks associated with discharging its responsibilities through the use of appropriate tools and procedures) and Core Principle G (requiring, in part, that a DCO have rules and procedures designed to allow for the efficient, fair, and safe management of events during which members or participants become insolvent or other default).

The Commission requests comment on all aspects of these proposals. The Commission is particularly interested in the following: In light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.38 reduce systemic risks? Would proposed regulation 39.38 contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.38 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.38 consistent with the PFMIs? If not, what changes need to be made to achieve such consistency? What alternatives to proposed regulation 39.38, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? Can proposed regulation 39.38 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential benefits and costs resulting from, or arising out of, requiring SIDCOs to comply with regulation 39.38? The Commission also requests comment on the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with regulation 39.38. In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits. The Commission requests that commenters include a detailed description of any alternatives to proposed regulation 39.38 and estimates of the costs and benefits of such alternatives.

K. Regulation 39.39 (Recovery and Wind-Down For Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The Commission is proposing regulation 39.39 to require a SIDCO or Subpart C DCO to maintain viable plans for recovery and orderly wind-down. In particular, regulation 39.39 is designed to protect the members of such DCOs and their customers, as well as the financial system more broadly from the consequences of a disorderly failure of such a DCO.

As noted above, Principle 3 requires a CCP to have a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.[168] Under Principle 3, such a framework would include identifying scenarios that may prevent the CCP from providing critical operations and services as a going concern and would assess the effectiveness of a full range of options for recovery or orderly wind-down. Similarly, Principle 15 requires a CCP to identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the CCP can continue operations and services as a going concern if those losses materialize.[169] Further, these liquid net assets should, at all times, be sufficient to allow for recovery or orderly wind-down of critical operations and services.[170] Although there is no Core Principle that pertains directly to the establishment of a recovery and wind-down plan, proposed regulation 39.37 promotes concepts set forth in Core Principles B (Financial Resources), D (Risk Management), G (Default Rules and Procedures), and I (System Safeguards).[171]

Accordingly, proposed regulation 39.39 requires a SIDCO or Subpart C DCO to develop additional plans that specifically address ''recovery'' and ''wind-down.'' The Commission proposes defining ''recovery'' as the actions of a SIDCO or Subpart C DCO, consistent with its rules, procedures, and other *ex-ante* contractual arrangements, to address any uncovered credit loss, liquidity shortfall, capital inadequacy, or business, operational or other structural weakness, including the replenishment of any depleted pre-funded financial resources and liquidity arrangements, as necessary to maintain the SIDCO's or Subpart C DCO's viability as a going concern so that it can continue to provide its critical services without requiring the commencement of an insolvency proceeding or the use of resolution powers by the Federal Deposit Insurance Corporation or any other relevant resolution authority. The Commission proposes defining ''wind-down'' as the actions of a SIDCO or Subpart C DCO to effect the permanent cessation or sale or transfer of one or more services. The Commission is also proposing to add a definition for

[164] *See* PFMIs at E.N. 3.21.1.

[165] PFMIs at E.N. 3.21.2.

[166] PFMIs at E.N. 3.21.5.

[167] PFMIs at E.N. 3.21.1.

[168] *See supra* Section I.E.3.

[169] *See supra* Section I.E.9.

[170] *See id.*

[171] *See supra* Section I.D.1–4.

''general business risk,'' which would mean any potential impairment of a SIDCO's or Subpart C DCO's financial position, as a business concern, as a consequence of a decline in its revenues or an increase in its expenses, such that expenses exceed revenues and result in a loss that the SIDCO or Subpart C DCO must charge against capital. In addition, the Commission proposes defining ''operational risk'' to mean the risk that deficiencies in information systems or internal processes, human errors, management failures or disruptions from external events will result in the reduction, deterioration, or breakdown of services provided by a SIDCO or Subpart C DCO. Finally, the Commission is proposing to define ''unencumbered liquid financial assets'' to include cash and highly liquid securities. These proposed definitions are designed to be consistent with the meaning of such terms in the PFMIs. The Commission requests comment as to whether these definitions are appropriate. Specifically, the Commission requests comment on whether the definition of ''recovery'' is appropriate in light of emerging international consensus.

The Commission is proposing to require each SIDCO and Subpart C DCO to maintain viable plans for: (i) Recovery or orderly wind-down, necessitated by credit losses or liquidity shortfalls; and (ii) recovery or orderly wind-down, necessitated by general business risk, operational risk, or any other risk that threatens the SIDCO's or Subpart C DCO's viability as a going concern. The Commission also proposes requiring that the recovery and wind-down plans of SIDCOs and Subpart C DCOs meet certain standards, set forth in proposed subsection (c). Specifically, the Commission proposes requiring a SIDCO or Subpart C DCO to identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. The SIDCO's or Subpart C DCO's plans should also include procedures for informing the Commission, as soon as practicable, when the recovery plan is initiated or wind-down is pending, as well as procedures for providing the Commission and any other relevant authorities (e.g., the Federal Deposit Insurance Corporation) with information necessary for resolution planning.

Proposed regulation 39.39(d) requires that the recovery and wind-down plans of a SIDCO or Subpart C DCO be supported by certain resources. Specifically, in evaluating the resources available to cover any uncovered credit losses or liquidity shortfalls as part of its recovery or wind-down plans necessitated by credit losses of liquidity shortfalls, a SIDCO or Subpart C DCO would be permitted to consider, among other things, assessments of additional resources provided for under its rules that it reasonably expects to collect from non-defaulting members. In addition, a SIDCO or Subpart C DCO would be required to maintain sufficient unencumbered liquid financial assets, funded by the equity of its owners, to implement its recovery or wind-down plans necessitated by general business risk, operational risk, or any other risk that threatens the SIDCO's or Subpart C DCO's viability as a going concern. Moreover, while the resources required by regulation 39.11(a)(2) may be sufficient to maintain a SIDCO's or Subpart C DCO's recovery or wind-down plans necessitated by general business risk, operational risk, or any other risk that threatens the SIDCO's or Subpart C DCO's viability as a going concern, a SIDCO or Subpart C DCO would be required to (i) analyze such plans, including the particular circumstances and risks associated with the SIDCO or Subpart C DCO, and (ii) maintain any additional resources that may be necessary to implement such plans.[172] A SIDCO or Subpart C DCO would be required to comply with regulation 39.11(e)(2) in allocating sufficient financial resources to implement its recovery or wind-down plans necessitated by general business risk, operational risk, or any other risk that threatens the SIDCO's or Subpart C DCO's viability as a going concern. Moreover, such plans would need to include evidence and analysis to support the conclusion that the amount considered necessary is, in fact, sufficient to implement them.

Proposed regulation 39.39(d)(3) would prohibit counting the resources maintained to meet the requirements of regulations 39.11(a)(1) and 39.33 as available, in whole or in part, for uses other than addressing the default of one or more clearing members. Further, proposed regulation 39.39(d)(3) would prohibit a SIDCO or Subpart C DCO from counting the same resources as available to address both its recovery or orderly wind-down, necessitated by credit losses or liquidity shortfalls; and its recovery or orderly wind-down, necessitated by general business risk, operational risk, or any other risk that threatens the SIDCO's or Subpart C DCO's viability as a going concern. In other words, if a SIDCO or Subpart C DCO allocates resources, in whole or in part, to execute its recovery plans required by proposed regulation 39.39(b)(1), it may not allocate those same resources, in whole or in part, to satisfy the requirements of proposed regulation 39.39(b)(2).[173] In addition, resources may be allocated only to the extent the use of that resource is not otherwise limited by the CEA, Commission regulations, the SIDCO's or Subpart C DCO's rules, or any contractual arrangements to which the SIDCO or Subpart C DCO is a party.

Finally, under 39.39(e), a SIDCO or Subpart C DCO would be required to maintain viable plans for raising additional financial resources, including, where appropriate, capital, in a scenario in which it is unable, or virtually unable, to comply with any financial resource requirements set forth in part 39. These plans would also have to be approved by the SIDCO's or Subpart C DCO's board of directors and be updated regularly.

These proposed regulations are intended to address certain differences between existing Commission regulations and the standards set forth in the PFMIs. In addition, it would appear to be necessary for a SIDCO to maintain and regularly update a recovery and wind-down plan so as to reduce or attempt to control the potential impact a failure or disruption of the SIDCO's operations would have on the stability of the U.S. financial markets.

The Commission requests comment on all aspects of these proposals. The Commission is particularly interested in the following: In light of the potential impact that a SIDCO's failure could have on the U.S. financial system, would compliance with proposed regulation 39.39 reduce systemic risks? Would proposed regulation 39.39 contribute to the goals articulated in the Dodd-Frank Act, particularly the goals of Titles VII and VIII of the Dodd-Frank Act? If so, in what ways? If not, why not? What alternatives, if any, to proposed regulation 39.39 would be more effective in reducing systemic risk or accomplishing the goals articulated in the Dodd-Frank Act? Is proposed regulation 39.39 consistent with the PFMIs? If not, what changes need to be

[172] Thus, the requirements of proposed § 39.39(d)(2) and existing § 39.11(a)(2) are overlapping, rather than alternative. A SIDCO or Subpart C DCO whose plan pursuant to § 39.39(b)(2) anticipates completion of wind-down in three months would nonetheless be held to the requirement of one year of operating costs specified in § 39.11(a)(2).

[173] This is consistent with the approach taken in § 39.11(b)(3).

made to achieve such consistency? What alternatives to proposed regulation 39.39, if any, would be more effective or efficient for achieving consistency with the standards set forth by the PFMIs? Can proposed regulation 39.39 be effectively implemented and complied with? If not, what changes can be made to permit effective implementation and compliance? What are the potential benefits and costs resulting from, or arising out of, requiring SIDCOs to comply with regulation 39.39? The Commission also requests comment on the potential costs and benefits resulting from, or arising out of, requiring Subpart C DCOs to comply with regulation 39.39. In considering costs and benefits, commenters are requested to address the effect of the proposed regulation not only on a DCO, but also on the DCO's clearing members, the customers of clearing members, and the financial system more broadly. The Commission requests that, where possible, commenters provide quantitative data in their comments, particularly with respect to estimates of costs and benefits. The Commission requests that commenters include a detailed description of any alternatives to proposed regulation 39.39 and estimates of the costs and benefits of such alternatives.

L. Regulation 39.40 (Consistency With the PFMIs)

Proposed regulation 39.40 would make clear that Subpart C is intended to establish regulations that, together with Subpart A and Subpart B, are consistent with the DCO Core Principles set forth in Section 5b(c)(2) of the CEA and the PFMIs. Specifically, to the extent of any ambiguity, the Commission intends to interpret the regulations set forth in part 39 in a manner that is consistent with the standards set forth in the PFMIs. Such consistency would appear to promote international harmonization and is intended to allow the bank clearing members and bank customers of SIDCOs and Subpart C DCOs to receive the more favorable capital treatment under the Basel CCP Capital Requirements.

The Commission requests comment on all aspects of these proposals. Specifically, the Commission requests comment on whether there are more effective or efficient means for achieving consistency with the standards set forth by the PFMIs. The Commission requests that commenters include a detailed description of any such alternatives and estimates of the costs and benefits of any such alternatives.

M. Regulation 39.41 (Special Enforcement Authority for Systemically Important Derivatives Clearing Organizations)

In 2013, the Commission adopted regulation 39.31, which implemented special enforcement authority over SIDCOs granted to the Commission under section 807(c) of the Dodd-Frank Act.[174] The Commission is not proposing any changes to regulation 39.31 other than to renumber it as regulation 39.41.

N. Regulation 39.42 (Advance Notice of Material Risk-Related Rule Changes by Systemically Important Derivatives Clearing Organizations)

The Commission proposes moving existing paragraph (c) of regulation 39.30 (Scope) to proposed regulation 39.42.[175] This provision instructs a SIDCO to provide advance notice to the Commission of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the SIDCO, in accordance with regulation 40.10.[176] Because the other provisions of proposed revised regulation 39.28 (renumbered as regulation 39.30) pertain to the scope of Subpart C,[177] it would be appropriate for paragraph (d) to be codified in a separate regulation. No substantive change is intended.

O. Regulation 140.94 (Delegation of Authority to the Director of the Division of Clearing and Risk)

The Commission proposes amending regulation 140.94 so that certain Commission functions contained in these proposed regulations would be delegated to the Director of the Division of Clearing and Risk and to such staff members as the Director may designate. Specifically, the Commission proposes to delegate all functions reserved to the Commission in proposed regulation 39.31 including, for example, the authority to request that a DCO provide information supplementing a Subpart C Election Form that it has filed with the Commission; to determine whether an election to be subject to Subpart C should be permitted to become effective, stayed or denied; and to provide any notices regarding the foregoing. The Commission also proposes to delegate to the Director of the Division of Clearing and Risk and to his or her designees the decision described in regulation 39.34(d) (whether to grant a SIDCO or a Subpart C DCO up to one year to comply with any provision of regulation 39.34).

P. Regulation 190.09 (Member Property)

Certain of the proposed requirements for SIDCOs and Subpart C DCOs necessitate certain clarifications to part 190 of the Commission's regulations. Specifically, proposed regulation 39.35(a) would require a SIDCO or Subpart C DCO to ''adopt explicit rules and procedures that address fully any loss arising from any individual or combined default relating to any clearing members' obligations to the SIDCO or Subpart C DCO.'' Proposed regulation 39.37(b) would require a SIDCO or Subpart C DCO to maintain viable plans for recovery and orderly wind-down. In addition, SIDCOs and Subpart C DCOs must comply with Core Principle R, which require all registered DCOs to ''have a well-founded, transparent, and enforceable legal framework for each aspect of the activities of the DCO.''

The Commission notes that the risk management practices of DCOs vary depending, in part, on the types of assets that the DCO clears. For example, some DCOs ring-fence mutualized default resources related to certain asset classes separately from resources related to other such classes, in part, because of the different risk profiles associated with those asset classes and a desire among members to avoid exposure to contributions to mutualized resources for asset classes in which such members do not participate. In such cases, the DCOs have updated their financial safeguards arrangements to accommodate these differences.[178]

Recognizing the diversity of financial safeguard arrangements among DCOs, it would appear to be prudent to clarify certain language in part 190 to materially aid compliance with Core Principle R and the proposed regulations specified above. Specifically, regulation 190.09 defines the scope of ''member property'' in the context of a DCO bankruptcy. The Commission notes that when regulation

[174] *See* SIDCO Final Rule.

[175] *See supra* Section II.B and note 111.

[176] The Commission promulgated this provision as part of the SIDCO Final Rule.

[177] *See supra* Section II.B. (discussing proposed revised regulation 39.28, renumbered as regulation 39.30).

[178] For example, CME Clearing has three independent guaranty funds and financial safeguards: one for interest rate swap contracts (IRS Contracts), one for credit default swap contracts (CDS Contracts), and one for futures and cleared OTC products, other than IRS or CDS (the Base Guaranty Fund). *See* Rule 802.A of the CME Rulebook in respect of the Base Guaranty Fund, Rule 8G802.A of the CME Rulebook in respect of IRS Contracts, and Rule 8H802.A of the CME Rulebook in respect of CDS Contracts, each of which is *available at http://www.cmegroup.com/rulebook/CME/.*

190.09(b) was first proposed and adopted in the early 1980s, DCOs did not hold specific and independent guaranty funds for different product classes within a single legal entity. As such, the definition of ''member property'' in regulation 190.09(b) does not expressly address the treatment of independent guaranty fund deposits in the context of a DCO bankruptcy. Thus, to avoid interference with the rules of a DCO governing the operation of such funds, the Commission proposes the clarifications discussed below.

Therefore, the Commission proposes amending paragraph (b) of regulation 190.09 to clarify that the scope of member property will be determined based on the by-laws and rules of the relevant DCO. Specifically, this amendment would clarify that the inclusion of guaranty fund contributions and other property as ''member property'' in the context of a DCO bankruptcy would be subject to the by-laws or rules of the DCO. Thus, under proposed regulation 190.09(b), the Commission proposes that a DCO's distinct guaranty funds, which are established for separate product classes by the DCO's by-laws or rules, shall be treated separately from one another to the extent required by the DCO's by-laws or rules.

The Commission requests comment on all aspects of this proposal. Specifically, the Commission requests comment on whether the amendments to regulation 190.09 will impose any costs on DCOs, clearing members, or other market participants, and whether there are more effective or efficient means for recognizing the diversity of financial safeguard arrangements among DCOs in a bankruptcy. The Commission requests that commenters include a detailed description of any such alternatives and estimates of the costs and benefits of such alternatives.

III. Effective Date

Revised regulation 190.09 would take effect upon publication of the final rulemaking in the **Federal Register**. Proposed regulations 39.31 and 140.94 would take effect on December 13, 2013. All of the other revised and proposed regulations set forth herein would take effect on December 31, 2013, in accordance with the Commission's goal of implementing DCO regulations consistent with the PFMIs by the end of calendar year 2013.

IV. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 et seq., provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number from the Office of Management and Budget (''OMB''). This rulemaking contains recordkeeping and reporting requirements that are collections of information within the meaning of the PRA. In particular, although the Commission does not anticipate that more than ten persons will respond initially to this collection of information, the term ''ten or more persons,'' which triggers PRA compliance, has been deemed to apply to ''[a]ny recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability.'' 5 CFR. 1320.3(c)(4). The Commission will submit an information collection request in the form of an amendment to existing OMB control number 3038–0081.

This rulemaking contains many provisions that would qualify as collections of information, for which the Commission has already sought and obtained a control number from OMB. The burden hours associated with those provisions are not replicated here because the Commission is obligated to account for PRA burden once, and the PRA encourages multiple applications of a single collection.[179] Accordingly, the burdens associated with the collections contained in this proposed rulemaking, and the information collection request that will be submitted to OMB, have been estimated only to the extent that the proposed rulemaking imposes collections of information that OMB has not yet reviewed and approved.

It should be noted that among the thirteen DCOs presently registered with the Commission, only two are SIDCOs. Moreover, not all remaining DCOs or all DCO Applicants are likely to elect to become Subpart C DCOs (for example, DCOs that are based outside of the U.S. may seek to obtain QCCP status through regulation by their home country regulator). Thus, the burden calculations herein are based on an estimate of how many DCOs are SIDCOs and how DCOs and DCO Applicants are likely to elect to become Subpart C DCOs. Additionally, many of the collections herein, in particular those related to electing Subpart C DCO status, are expected to be one-time events for a DCO. It is anticipated that three DCOs will elect to become subject to Subpart C in the year following the adoption of final rules, with possibly one or two additional elections thereafter.

Finally, it is not possible to precisely estimate the reporting and recordkeeping burden for the SIDCOs and Subpart C DCOs that will be affected by the collections contained in this rulemaking, as the actual burden will be dependent on the operations and staffing of each particular SIDCO and Subpart C DCO and the manner in which they choose to implement compliance with certain requirements. Therefore, the burden estimates below are meant to be a composite of the burdens that will be absorbed across all SIDCOs and Subpart C DCOs, to the extent that the provisions for which information collection burdens are applicable.

1. Collections Only Applicable to Subpart C DCOs

Proposed regulations 39.31(b) and 39.31(c) would establish the process whereby DCO and DCO Applicants, respectively, may elect to become Subpart C DCOs subject to the provisions of Subpart C. The election involves filing the proposed Subpart C Election Form that would be contained in proposed appendix B to part 39 (including completing the certifications therein, providing proposed exhibits A through G, and drafting and publishing the DCO's responses to the Disclosure Framework, and, when applicable, the DCO's Quantitative Information Disclosure). Additionally, paragraphs (b)(2) and (c)(3) of proposed regulation 39.31 provide for Commission requests for supplemental information from those requesting Subpart C DCO status; paragraphs (b)(3) and (c)(4) require amendments to the Subpart C Election Form in the event that a DCO or DCO Applicant, respectively, discovers a material omission or error in, or if there is a material change in, the information provided in the Subpart C Election Form; paragraphs (b)(7) and (c)(5) permit a DCO or DCO Applicant, respectively, to submit a notice of withdrawal to the Commission in the event the DCO or DCO Applicant determines not to seek Subpart C DCO status prior to such status becoming effective; and paragraph (e) establishes the procedures by which a Subpart C DCO may rescind its Subpart C DCO status after it has been permitted to take effect. Each of these requirements implies recordkeeping that would be produced by a DCO to the Commission on an occasional basis to demonstrate compliance with the proposed rules.

It is estimated presently that it is likely that only three DCOs will elect to become Subpart C DCOs, but it has been

[179] *See* 35 U.S.C. 3501(2) and (3).

conservatively estimated below that, collectively, five DCOs or DCO Applicants may elect to become Subpart C DCOs. It is unlikely that any DCO or DCO Applicant will withdraw its election to become subject to Subpart C prior to such election becoming effective, but an estimate of compliance with the withdrawal procedures by one DCO has been included below. It is estimated presently that it is likely that none of the Subpart C DCOs will elect to rescind its election, but it has been conservatively estimated below that one Subpart C DCO may rescind its election. Consequently, the burden hours for the proposed collection of information in this rulemaking have been estimated as follows:

Reporting—Certifications—Subpart C Election Form
- Estimated number of reporters: 5
- Estimated number of reports per reporter: 1
- Average number of hours per report: 25
- Estimated gross annual reporting burden: 125

Reporting—Exhibits A through G—Subpart C Election Form
- Estimated number of reporters: 5
- Estimated number of reports per reporter: 1
- Average number of hours per report: 155
- Estimated gross annual reporting burden: 775

Reporting—Preparing and Publishing Disclosure Framework Responses
- Estimated number of reporters: 5
- Estimated number of reports per reporter: 1
- Average number of hours per report: 200
- Estimated gross annual reporting burden: 1,000

Reporting—Preparing Quantitative Information Disclosures
- Estimated number of reporters: 5
- Estimated number of reports per reporter: 1
- Average number of hours per report: 80
- Estimated gross annual reporting burden: 400

Reporting—Requests for Supplemental Information
- Estimated number of reporters: 5
- Estimated number of reports per reporter: 5
- Average number of hours per report: 45
- Estimated gross annual reporting burden: 1,125

Reporting—Amendments to Subpart C Election Form
- Estimated number of reporters: 5
- Estimated number of reports per reporter: 3
- Average number of hours per report: 8
- Estimated gross annual reporting burden: 120

Reporting—Withdrawal Notices
- Estimated number of reporters: 1
- Estimated number of reports per reporter: 1
- Average number of hours per report: 2
- Estimated gross annual reporting burden: 2

Reporting—Rescission Notices
- Estimated number of reporters: 1
- Estimated number of reports per reporter: 75
- Average number of hours per report: 3
- Estimated gross annual reporting burden: 225

Recordkeeping
- Estimated number of recordkeepers: 5
- Estimated number of records per recordkeeper: 82
- Average number of hours per record: 1
- Estimated gross annual recordkeeping burden: 410

2. Collections Applicable Both to SIDCOs and Subpart C DCOs

Proposed regulations 39.32(a) and (b) establish governance requirements applicable to each SIDCO and Subpart C DCO, including specific provisions requiring written and disclosed governance arrangements and the disclosure of certain decisions on particular, not regularly scheduled, occasions, to the Commission, the SIDCO or Subpart C DCO's clearing members, other relevant stakeholders and/or the public. Proposed regulation 39.33(d) requires a SIDCO or Subpart C DCO to conduct due diligence on its liquidity providers and to conduct periodic testing with respect to its access to liquidity resources. Proposed regulation 39.33(e) establishes documentation requirements with respect to the supporting rationale for the financial and liquidity resources it maintains pursuant to proposed regulations 39.33(a) and 39.33(c), respectively.

Proposed regulation 39.36(c)(6) requires each SIDCO and Subpart C DCO to report stress test results to its risk management committee or board of directors. Proposed regulation 39.37(a) requires each SIDCO and Subpart C DCO to complete and to publicly disclose its responses to the Disclosure Framework and, when applicable, to complete and disclose a Quantitative Information Disclosure. As described above and as accounted for in the previous portion of this PRA burden estimate, these tasks will be conducted by Subpart C DCOs as part of their election to become subject to Subpart C. SIDCOs and DCOs also are required to update their Disclosure Framework responses and Quantitative Information Disclosure every two years. Proposed regulations 39.37(c) and (d) require each SIDCO or Subpart C DCO to disclose, publicly and to the Commission, certain data on transaction volume and values and their rules, policies, and procedures related to the segregation and the portability of customers' positions and funds.

Proposed regulation 39.38 requires each SIDCO or Subpart C DCO to establish a process to review the efficiency and effectiveness of its clearing and settlement arrangements, operating structure and procedures, scope of products cleared and use of technology. Finally, proposed regulations 39.39(b) and (c) require each SIDCO and Subpart C DCO to develop and maintain viable plans for the recovery or wind-down of the SIDCO or Subpart C DCO necessitated by certain circumstances. Each of these requirements implies recordkeeping that would be produced by the SIDCO or Subpart C DCO to the Commission on an occasional basis to demonstrate compliance with the proposed rules.

It is not possible to estimate with precision how many DCOs may, in the future, be determined to be SIDCOs and how many may elect to become Subpart C DCOs, but it conservatively has been estimated below that, collectively, a total of seven DCOs may be determined to be SIDCOs or may opt to become Subpart C DCOs. Presently, there are two SIDCOs and is has been estimated that five DCOs will elect to become Subpart C DCOs. Consequently, the burden hours for the proposed collection of information in this rulemaking have been estimated as follows:

Reporting—Governance Requirements—Written Governance Arrangements
- Estimated number of reporters: 7
- Estimated number of reports per recordkeeper: 1
- Average number of hours per report: 200
- Estimated gross annual reporting burden: 1,400

Reporting—Governance Requirements—Required Disclosures
- Estimated number of reporters: 7
- Estimated number of reports per recordkeeper: 6
- Average number of hours per report: 3
- Estimated gross annual reporting burden: 126

Reporting—Financial and Liquidity Resource Documentation
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 1
Average number of hours per report: 120
Estimated gross annual reporting burden: 840
Reporting—Stress Test Results
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 16
Average number of hours per report: 14
Estimated gross annual reporting burden: 1,568
Reporting—Preparing and Publishing Disclosure Framework Responses (SIDCOs only)
Estimated number of reporters: 2
Estimated number of reports per recordkeeper: 1
Average number of hours per report: 200
Estimated gross annual reporting burden: 400
Reporting—Updating and Republishing Disclosure Framework Responses (SIDCOs and Subpart C DCOs)
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 1
Average number of hours per report: 80
Estimated gross annual reporting burden: 560
Reporting—Preparing and Publishing Quantitative Information Disclosures (SIDCOs only)
Estimated number of reporters: 2
Estimated number of reports per reporter: 1
Average number of hours per report: 80
Estimated gross annual reporting burden: 160
Reporting—Updating and Republishing Quantitative Information Disclosures (SIDCOs and Subpart C DCOs)
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 1
Average number of hours per report: 35
Estimated gross annual reporting burden: 245
Reporting—Transaction, Segregation, Portability Disclosures
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 2
Average number of hours per report: 35
Estimated gross annual reporting burden: 490
Reporting—Efficiency and Effectiveness Review
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 1
Average number of hours per report: 3
Estimated gross annual reporting burden: 21
Reporting—Recovery and Wind-Down Plan
Estimated number of reporters: 7
Estimated number of reports per recordkeeper: 1
Average number of hours per report: 480
Estimated gross annual reporting burden: 3,360
Recordkeeping—Liquidity Resource Due Diligence and Testing
Estimated number of recordkeepers: 7
Estimated number of records per recordkeeper: 4
Average number of hours per record: 10
Estimated gross annual recordkeeping burden: 280
Recordkeeping—Financial and Liquidity Resources, Excluding Due Diligence and Testing
Estimated number of recordkeepers: 7
Estimated number of records per recordkeeper: 4
Average number of hours per record: 10
Estimated gross annual recordkeeping burden: 280
Recordkeeping—Generally
Estimated number of recordkeepers: 7
Estimated number of records per recordkeeper: 28
Average number of hours per record: 10
Estimated gross annual recordkeeping burden: 1960

3. Information Collection Comments

The Commission invites the public and other Federal agencies to comment on any aspect of the proposed information collection requirements discussed above. Pursuant to 44 U.S.C.3506(c)(2)(B), the Commission will consider public comments on such proposed requirements in:

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the estimated burden of the proposed information collection requirements, including the degree to which the methodology and the assumptions that the Commission employed were valid;
- Enhancing the quality, utility, and clarity of the information proposed to be collected; and
- Minimizing the burden of the proposed information collection requirements on SIDCOs and Subpart C DCOs, including through the use of appropriate automated, electronic, mechanical, or other technological information collection techniques, *e.g.,* permitting electronic submission of responses.

Copies of the submission from the Commission to OMB are available from the CFTC Clearance Officer, 1155 21st Street NW., Washington, DC 20581, (202) 418–5160 or from *http://RegInfo.gov*. Organizations and individuals desiring to submit comments on the proposed information collection requirements should send those comments to:

- The Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Trading Commission;
- (202) 395–6566 (fax); or
- *OIRAsubmissions@omb.eop.gov* (email).

Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rulemaking, and please refer to the **ADDRESSES** section of this rulemaking for instructions on submitting comments to the Commission. OMB is required to make a decision concerning the proposed information collection requirements between thirty (30) and sixty (60) days after publication of the NPRM in the **Federal Register**. Therefore, a comment to OMB is best assured of receiving full consideration if OMB (as well as the Commission) receives it within thirty (30) days of publication of this NPRM. The time frame for commenting on the PRA does not affect the deadline established by the Commission on the proposed rules, provided in the **DATES** section of this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires that agencies consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.[180] The rules proposed by the Commission will only affect DCOs. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the

[180] 5 U.S.C. 601 *et seq.*

RFA.[181] The Commission has previously determined that DCOs are not small entities for the purpose of the RFA.[182] Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rules will not have a significant economic impact on a substantial number of small entities.

C. Consideration of Costs and Benefits

1. Introduction

Section 15(a) requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.[183] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission's cost and benefit considerations in accordance with Section 15(a) are discussed below.

2. Background

As discussed above, this proposed rulemaking would: Address gaps between part 39 of the Commission's regulations and the standards set forth in the PFMIs; provide a procedure for Subpart C DCOs to elect to become subject to the provisions of Subpart C; and make related technical amendments to regulation 190.09. As proposed, revised Subpart C, together with Subpart A and Subpart B, would establish regulations that are consistent with the PFMIs.[184]

3. Costs and Benefits of the Proposed Rules

a. Costs

The Commission does not have quantification or estimation of the costs associated with the proposed regulations. However, in qualitative terms, the Commission recognizes that the proposed regulations are comprehensive and, compared to the status quo, may impose important costs on SIDCOs and Subpart C DCOs depending, in particular, on the SIDCO's or Subpart C DCO's current financial and liquid resources, and risk management framework. In particular, these proposed regulations may require SIDCOs and Subpart C DCOs to undertake a comprehensive review and analysis of their current policies, procedures, and systems in order to determine where it may be necessary to design and implement additional or alternative policies, procedures, and systems. Such costs may increase operational, administrative, and compliance costs for a SIDCO or Subpart C DCO. The Commission requests comment on the potential costs of the proposed regulations on SIDCOs and Subpart C DCOs, including, where possible, quantitative data. In addition, the Commission requests comment on the competitive impact, the costs as well as benefits, resulting from, or arising out of, requiring SIDCOs to comply with the provisions set forth in Subpart C, while permitting other registered DCOs to elect to become subject to these requirements (or to forego such election).

In addition to the costs for SIDCOs and Subpart C DCOs, the Commission has considered the costs the proposed regulations would impose upon market participants and the public. To the extent costs increase, the Commission notes that higher trading prices for market participants (*i.e.,* increased clearing fees, guaranty fund contributions, and margin fees, etc.) may discourage market participation and result in decreased liquidity and reduced price discovery.

i. Regulation 39.31 (Election To Become Subject to the Provisions of Subpart C)

As discussed above, proposed regulation 39.31 would set forth the procedures a DCO would be required to follow to elect to become subject to the provisions of Subpart C.[185] Proposed paragraph (b) would require a registered DCO to file a completed Subpart C Election Form with the Commission. The form appears in proposed Appendix B to Subpart C and is modeled after Form DCO, which the Commission promulgated in 2011 as part of the DCO General Provisions and Core Principles final rule.[186] Proposed paragraph (c) would require the same of a DCO that applies for registration with the Commission and that wants to be subject to the provisions of Subpart C as of the date the DCO is registered with the Commission. The Subpart C Election Form would include disclosures and exhibits wherein the DCO would be required to provide the following: a regulatory compliance chart; citations to the relevant rules, policies, and procedures of the DCO that addresses each Subpart C regulation; and a summary of the manner in which the DCO would comply with each regulation. In addition, the DCO would be required to provide, in separate exhibits, all documents that demonstrate the DCO's compliance with proposed regulations 39.32 through 39.36 and proposed regulation 39.39. A DCO would also be required to complete responses to the Disclosure Framework and publish a copy of its responses on its Web site.

The Commission notes that proposed regulation 39.31 would only apply to a DCO that the Council has not designated to be systemically important and that elects to become subject to the provisions of Subpart C. Proposed regulation 39.31, by providing an opt-in procedure and a procedure to rescind such election offers the benefit of permitting a DCO that is not systemically important may weigh (i) (1) the cost of preparing a comprehensive and complete Subpart C Election Form in accordance with the requirements set forth in proposed regulation 39.31 and (2) the costs associated with the requirements set forth in Subpart C against (ii) the benefit of attaining QCCP status, and, thus, to decide for itself whether to become subject to Subpart C.

As discussed below, a Subpart C DCO's compliance with the provisions of Subpart C would cause the Subpart C DCO to incur certain costs. Some of these costs may then be incurred, indirectly, by the Subpart C DCO's clearing members and their customers. The Commission requests comments concerning examples of such costs. If a clearing member or its customer would incur greater costs by clearing through a Subpart C DCO rather than through a DCO that has not opted-in to Subpart C, then that clearing member or customer may decide not to clear through a Subpart C DCO. The Commission requests comment as to how these indirect costs may be mitigated. The Commission also requests comment concerning the extent to which a DCO's analysis of whether the costs of being a Subpart C DCO may outweigh the benefits could be affected by the possibility that some of the costs may be incurred indirectly by clearing members and their customers.

In addition to the requests for comment set forth above, the Commission requests comment concerning the costs associated with the Subpart C Election Form, including without limitation, the election and

[181] Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982).

[182] *See* 66 FR at 45609.

[183] 7 U.S.C. 19(a).

[184] *See supra* Section I.G.

[185] *See supra* Section II.C (discussing proposed regulation 39.31).

[186] DCO General Provisions and Core Principles, 76 FR 69334 (Nov. 8, 2011) (final rule).

withdrawal procedures set forth in proposed regulation 39.31, as well as the requirements surrounding completion and publication of responses to the Disclosure Framework. The Commission also requests that each commenter provide quantitative data where practicable, as well as a detailed rationale supporting the response.

The Commission notes that pursuant to proposed paragraph (e), a Subpart C DCO would be permitted, subject to a 90 day notice period, to rescind its election to become subject to the provisions of Subpart C. As a result of the rescission, the DCO would no longer be considered a QCCP, which would likely create important costs for bank clearing members and the bank customers of a DCO's clearing members due to the higher capital costs that they would incur as a result of clearing transactions through the DCO that is no longer a QCCP.[187] Alternatively, clearing members and their customers may choose to end their clearing activities and transact through another DCO that is a QCCP, with either choice imposing costs on those clearing members and their customers.

As discussed in section II.C., above, the Commission requests comments on the potential costs to a Subpart C DCO to comply with all aspects of proposed regulation 39.32, including the cost of the opting-in process (including but not limited to the completion of the Subpart C Election Form) and the process for rescinding such an opting-in (including the notices required) and any costs that would be imposed on other market participants or the financial system more broadly.

ii. Regulation 39.32 (Governance for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As discussed above, proposed regulation 39.32 establishes governance requirements for SIDCOs and Subpart C DCOs that are consistent with the PFMIs and establish rules and procedures concerning conflicts of interest, compensation policies, organizational structure, and fitness standards for directors and officers.[188] Specifically, SIDCOs and Subpart C DCOs would be required to have written governance arrangements that are clear and transparent, that place a high priority on the safety and efficiency of the SIDCO or Subpart C DCOs, and that explicitly support the stability of the broader financial system and other relevant public interest considerations of clearing members, customers of clearing members, and other relevant stakeholders. In addition, these governance arrangements would be required to reflect the legitimate interests of clearing members, customers of clearing members, and other relevant stakeholders. To an extent consistent with other statutory and regulatory requirements on confidentiality and disclosure, SIDCO's and Subpart C DCOs would also be required to disclose major decisions of the board.[189] Proposed regulation 39.32 would require the rules and procedures of SIDCOs and Subpart C DCOs to: (1) Describe the SIDCO's or Subpart C DCO's management structure; (2) clearly specify the roles and responsibilities of the board of directors and its committees, including the establishment of a clear and documented risk management framework; (3) clearly specify the roles and responsibilities of management; (4) establish appropriate compensation policies; (5) establish procedures for managing conflicts of interest among board members; and (6) assign responsibility and accountability for risk decisions and for implementing rules concerning default, recovery, and wind-down. Finally, proposed regulation 39.32 would require that the board members and managers of SIDCOs and Subpart C DCOs have the appropriate experience, skills, incentives and integrity; risk management and internal control personnel have sufficient independence, authority, resources and access to the board of directors; and that the board of directors include members who are not executives, officers or employees of the SIDCO or Subpart C DCO or of their affiliates.

To the extent these requirements affect the behavior of a DCO, costs could arise from additional hours a DCO's employees might need to spend analyzing the compliance of the DCO's rules and procedures with these requirements, designing and drafting new or amended rules and procedures where the analysis indicates that these are necessary, and implementing these new or amended rules and procedures. These costs are difficult for the Commission to assess in the abstract because the proposed regulation grants a DCO a certain amount of discretion in determining which rules and procedures should be adopted to comply with the proposed regulation. As discussed in section II.D., above, the Commission requests comments on the potential costs to a SIDCO or Subpart C DCO to comply with all aspects of proposed regulation 39.32, and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to establish governance requirements consistent with the PFMIs, and the costs (or cost savings) associated with such alternatives.

iii. Regulation 39.33 (Financial Resources for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

(a.) Regulation 39.33(a): Cover Two

As discussed above, proposed amended regulation 39.33(a) would require a Subpart C DCO to comply with the Cover Two minimum financial resource standard for all of its activities if the Subpart C DCO: (1) Is involved in activities with a more complex risk profile or (2) is systemically important in multiple jurisdictions. This requirement currently applies to all SIDCOs.[190]

The cost of the Cover Two requirement for a Subpart C DCO that meets either or both of the two criteria described above[191] includes the opportunity cost[192] of the additional financial resources needed to satisfy the guaranty fund requirements for the risk of loss resulting from the default of the clearing member creating the second largest credit exposure.[193] In addition, the possibility exists that some market participants will port their positions from a Subpart C DCO that either (1) is deemed systemically important in multiple jurisdictions or (2) clears products of a more complex risk profile to another DCO for which neither (1) nor (2) applies because the value of the Cover Two protection to these market participants is less than the price at which that protection is being offered. These market participants will transact with SIDCOs or Subpart C DCOs that

[187] *See supra* Section I.F (discussing the treatment for non-QCCP clearing members under the Basel CCP Capital Requirements).

[188] *See supra* Section II.D (discussing proposed regulation 39.32).

[189] *Id.*

[190] *See supra* Section II.E (discussing proposed revised regulation 39.33).

[191] All Subpart C DCOs would bear the administrative cost of determining whether they meet either of the criteria.

[192] For Subpart C DCOs that are not deemed systemically important in multiple jurisdictions or that do not clear products with a more complex risk profile, the Cover One financial resources requirement would continue to apply, and therefore, these Subpart C DCOs would not face increased opportunity costs associated with the proposed regulation.

[193] In the event that these additional resources would need to be raised by the Subpart C DCO, as opposed to reallocated, this cost would be the funding cost for raising these additional resources.

operate under Cover One, which is a lower financial resources requirement, and thus, get the benefit of lower transactional fees and forego the enhanced protections associated with the SIDCOs or Subpart C DCOs. However, the potential cost to a SIDCO or a Subpart C DCO subject to the Cover Two requirement and to the goal of systemic risk reduction would likely be mitigated because: (a) Not every product offered by a SIDCO or Subpart C DCO would be available at other DCOs and (b) a SIDCO or Subpart C DCO may offer benefits not available to a DCO does not elect to become subject to the provisions of Subpart C, that is not designated as systemically important, and/or that does not clear products with a more complex risk profile. This would therefore reduce the likelihood that market participants would port their positions to other DCOs. As indicated in section II.E. (description of proposed regulation 39.33), above, the Commission requests comment on these costs, including quantitative data, if available.

(b.) Regulation 39.33(b): Valuation of Financial Resources

Proposed amended regulation 39.33(b) would prohibit SIDCOs and Subpart C DCOs from including assessments as part of their calculation of the financial resources available to cover the default of the clearing member creating the largest credit exposure and, where applicable, the default of the two clearing members creating the largest aggregate credit exposure, in extreme but plausible circumstances, *i.e.,* Cover One or Cover Two.[194] This requirement currently applies to all SIDCOs and would be expanded to include Subpart C DCOs. The costs associated with the prohibition on the use of assessments by a Subpart C DCO in calculating its obligations under regulation 39.33(a) would include the opportunity cost of the additional pre-funded financial resources needed to replace the value of such assessments, which may require an infusion of additional capital. In addition, as with the Cover Two requirement, market participant demand may shift from a SIDCO or a Subpart C DCO subject to the Cover Two requirement to a DCO with a lower capitalization requirement. As indicated in Section II.E, above, the Commission requests comment on these costs, including quantitative data, if available.

(c.) Regulation 39.33(c), (d) and (e): Liquidity

Proposed regulation 39.33(c) would require a SIDCO and a Subpart C DCO to maintain eligible liquidity resources that will enable it to meet its intraday, same-day and multiday settlement obligations, in all relevant currencies, with a high degree of confidence under a wide range of stress scenarios notwithstanding a default by the clearing member creating the largest aggregate liquidity obligation. Eligible resources are limited to cash in the currency of the requisite obligation, held at the central bank of issue or a creditworthy commercial bank, certain highly marketable collateral, subject to certain prearranged and highly reliable funding arrangements, and various committed liquidity arrangements. These arrangements must be reliable and enforceable in extreme but plausible market conditions, and must not contain material adverse change clauses.

In addition, a SIDCO or Subpart C DCO that is systemically important in multiple jurisdictions or that is involved in activities with a more complex risk profile would be required to consider maintaining liquidity resources that would enable it to meet the default of the two clearing members creating the largest aggregate payment obligation. If a SIDCO or Subpart C DCO maintains liquid financial resources in addition to those required to satisfy the minimum financial resources requirement set forth in regulations 39.11(a)(1) and 39.33(a), then those resources should be in the form of assets that are likely to be saleable or acceptable as collateral for lines of credit, swaps, or repurchase agreements on an *ad hoc* basis.[195]

Proposed regulation 39.33(d) would impose a duty on SIDCOs and Subpart C DCOs to perform due diligence on their liquidity providers in order to determine their ability to perform reliably their commitments to provide liquidity. Finally, proposed regulation 39.33(e) would require SIDCOs and Subpart C DCOs to document their supporting rationale for the amount of financial resources they maintain pursuant to proposed regulation 39.33(a) and the amount of liquidity resources they maintain pursuant to proposed regulation 39.33(c).[196]

Proposed regulations 39.33(c)-(e) may result in additional costs for a SIDCO or Subpart C DCO with respect to analyzing and measuring intra-day, same-day, and multiday liquidity requirements in all relevant currencies, developing plans to meet those requirements, obtaining eligible liquidity resources and making eligible liquidity arrangements, reviewing and monitoring each liquidity provider's risks and reliability (including through periodic testing of access to liquidity), and documenting the DCO's basis for conclusions with respect to its financial resources and liquidity resources requirements. These proposed regulations also will require stress testing and other analysis of such resources as compared with the DCO's liquidity needs. Specifically, with regards to proposed regulation 39.33(c), there may be costs involved in obtaining cash in the relevant currencies or arranging for qualifying liquidity commitments, such as a committed line of credit, to satisfy the minimum financial resources requirement set forth in regulation 39.11(a)(1)(*i.e.,* Cover One). Obtaining these committed financial resources would involve administrative expenses such as the negotiation and drafting of committed arrangements, as well as costs arising from the payment of fees to liquidity providers. In addition, there may be operational costs involved in calculating the liquidity resources requirements at the Cover One level on an intraday, same-day, and multiday basis over the course of a default. This calculation may require undertaking a complex analysis of the SIDCO's or Subpart C DCO's exposures and processes, including various models, and, where appropriate, designing and implementing changes to either create or modify existing internal processes. While this analysis may involve costs, it would appear that it will improve the SIDCO's or Subpart C DCO's financial condition, as described below in section 2.b.iii. of the benefits section.

Proposed regulation 39.33(d) may increase administrative costs to the extent that a SIDCO or a Subpart C DCO is required to review and monitor its liquidity provider's capacity and reliability to perform its liquidity obligations to the DCO. In addition, proposed regulation 39.33(e) may impose an administrative cost to document the SIDCO or Subpart C DCO's rationale for the financial resources it maintains.

As discussed in section II.E., above, the Commission requests comments on the potential costs to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.33 and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically

[194] *See supra* Section II.E (discussing proposed revised regulation 39.33).

[195] *Id.*

[196] *Id.*

requests comment on alternative means to establish financial resources and liquidity requirements consistent with the PFMIs (including, *e.g.,* through alternative definitions of terms), and the costs (or cost savings) associated with such alternatives.

iv. Regulation 39.34 (System Safeguards for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As discussed above, proposed amended regulation 39.34 would require SIDCOs and Subpart C DCOs to comply with enhanced system safeguards requirements.[197] While SIDCOs are already subject to these requirements, the Commission proposes expanding this regulation to include Subpart C DCOs. The proposed regulation could increase operational costs for Subpart C DCOs by requiring additional resources, including with respect to personnel, technology (*e.g.,* hardware and software) and the purchase or rental of premises in order to achieve geographic dispersal of resources. In particular, the costs of moving from a next-day RTO, the minimum standard established by the DCO core principles and current regulation 39.18, to a two-hour RTO as required by proposed regulation 39.34, may be significant. Additionally, the implementation of a two-hour RTO may impose one-time costs to establish the enhanced resources and recurring costs to operate the additional resources. As discussed in section II.F. above, the Commission requests comments on the potential costs to a Subpart C DCO in complying with all aspects of proposed regulation 39.34, and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to establish, for Subpart C DCOs, system safeguards requirements consistent with the PFMIs and the costs (or cost savings) associated with such alternatives.

v. Regulation 39.35 (Default Rules and Procedures for Uncovered Losses or Shortfalls (Recovery) for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

Proposed regulation 39.35 would require SIDCOs and Subpart C DCOs to adopt policies and procedures to address certain issues arising from extraordinary stress events, including the default of one or more clearing members.[198] The costs associated with these default rules and procedures may include administrative costs to: review and analyze current policies and procedures; design and draft new or amended policies and procedures; and implement the new or amended policies and procedures. Such default rules and procedures must sufficiently (1) allocate uncovered credit losses and (2) enable a SIDCO or Subpart C DCO to promptly meet all of its obligations in the event of a default by one or more clearing members or an unforeseen liquidity shortfall exceeding the financial resources of the SIDCO or Subpart C DCO. As discussed in section II.G. above, the Commission requests comments on the potential costs to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.35, and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to establish requirements, in a manner consistent with the PFMIs, for adopting rules and procedures for uncovered losses or shortfalls, and the costs (or cost savings) associated with such alternatives.

vi. Regulation 39.36 (Risk Management for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

Proposed regulation 39.36 would impose enhanced risk management requirements for a SIDCO or Subpart C DCO, including, but not limited to, specific criteria for stress tests of financial resources, specific criteria for sensitivity analysis of margin models, specific criteria for stress tests of liquidity resources, requirements surrounding the monitoring and management of credit and liquidity risks arising out of settlement banks, and requirements surrounding the custody and investment of a SIDCO's or Subpart C DCO's own funds and assets.[199] Complying with this regulation could involve operational costs to perform the required testing, monitoring and analyses, which may include: A comprehensive analysis of existing stress testing scenarios; the design of new and/or alternative stress testing scenarios; and the design of a sensitivity analysis; the creation of a system for comprehensively monitoring, managing and limiting credit and liquidity risks arising out of settlement banks; and the implementation of controls surrounding the custody and investment of a SIDCO's or Subpart C DCO's own funds and assets. In addition, there may be costs associated with the modification and/or creation of processes necessary to support the enhanced risk management requirements in the proposed regulation. There would also be ongoing costs to conduct such risk management, analyze the results, and take action based on such results. In particular, to the extent that the analyses and monitoring reveal the need for additional financial or liquidity resources, there would be costs associated with obtaining such resources. In addition, there may be administrative and other costs associated with the management of a SIDCO's or Subpart C DCO's settlement bank exposures. As discussed in section II.H., above, the Commission requests comments on the potential costs to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.36, and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to establish risk management requirements consistent with the PFMIs, and the costs (or cost savings) associated with such alternatives.

vii. Regulation 39.37 (Additional Disclosure for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

Proposed regulation 39.37 would set forth additional public disclosure requirements for a SIDCO and Subpart C DCO, including the disclosure of, and updates to, the DCO's responses to the Disclosure Framework for FMIs.[200] Complying with this regulation may impose administrative costs to conduct a comprehensive analysis of the SIDCO or Subpart C DCO's policies, procedures and systems as well as the costs associated with the design, drafting and implementation of any new or modified policies, procedures and systems that would be necessary to comply with the proposed regulation. As discussed in section II.I. above, the Commission requests comments on the potential costs to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.37, and any costs that would be imposed on other market participants or the financial system

[197] *See supra* Section II.F (discussing proposed regulation 39.34).

[198] *See supra* Section II.G (discussing proposed regulation 39.35).

[199] *See supra* Section II.H (discussing proposed regulation 39.36).

[200] *See supra* Section II.I (discussing proposed regulation 39.37).

more broadly. As noted above, the Commission specifically requests comment on alternative means to establish disclosure requirements consistent with the PFMIs, and the costs (or cost savings) associated with such alternatives.

viii. Regulation 39.38 (Efficiency for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

Proposed regulation 39.38 would require a SIDCO or a Subpart C DCO to comply with certain efficiency standards regarding its clearing and settlement arrangements, operating structure and procedures, product scope, and use of technology. In addition, a SIDCO or Subpart C DCO would be required to establish clearly defined goals and objectives that are measureable and achievable, including minimum service levels, risk management expectations, and business priorities.[201] SIDCOs and Subpart C DCOs would also be required to facilitate efficient payment, clearing and settlement by accommodating internationally accepted communication procedures and standards. The costs associated with the proposed regulation may include the administrative costs of conducting a comprehensive review and analysis of the SIDCO's or Subpart C DCO's policies, procedures and systems, and where appropriate, the design, drafting and implementation of new or modified policies, procedures and systems to establish the goals and objectives necessary to comply with this regulations. There may also be administrative costs associated with establishing a mechanism to review the DCO's compliance with the proposed regulation, as well as operational costs associated with designing and implementing processes to accommodate internationally accepted communications standards. As discussed in section II.J. above, the Commission requests comments on the potential costs to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.38, and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to establish a requirement for efficiency standards consistent with the PFMIs, and the costs (or cost savings) associated with such alternatives.

ix. Regulation 39.39 (Recovery and Wind-Down for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

Proposed regulation 39.37 would require a SIDCO or Subpart C DCO to maintain viable plans for recovery and orderly wind-down, in cases necessitated by (1) credit losses or liquidity shortfalls and (2) general business risk, operational risk, or any other risk that threatens the DCO's viability as a going concern. This would require the DCO to identify scenarios that may prevent a SIDCO or Subpart C DCO from being able to provide its critical operations and services as a going concern and to assess the effectiveness of a full range of options for recovery or orderly wind-down.

The proposed regulation would also require a SIDCO or Subpart C DCO to evaluate the resources available to meet the plan to cover credit losses and liquidity shortfalls, and to maintain sufficient unencumbered liquid financial assets to implement the plan to cover other risks. The latter point requires a SIDCO or Subpart C DCO to analyze whether its particular circumstances and risks require it to maintain liquid net assets to fund the plan that are in addition to those resources currently required by regulation 39.11(a)(2).

This proposed regulation may impose costs on a SIDCO or Subpart C DCO to the extent it will be necessary to undertake a comprehensive qualitative and quantitative analysis of the credit, liquidity, general business, operational and other risks that may threaten the DCO's ability to provide its critical operations and services as a going concern, to design and draft plans to mitigate and address those risks, to analyze whether the DCO's resources allocated to recovery and/or wind-down are sufficient to implement those plans. This analysis may lead to the design of alternative and/or additional scenarios to be included in stress testing, the drafting of new or revised policies for a recovery and/or wind-down plan, and potentially the necessity of maintaining additional resources or procedures to obtain such resources in the event they are needed. Moreover, the regulation prohibits the double counting of available resources—that is, resources considered as available to meet the recovery and orderly wind-down plan for credit losses and liquidity shortfalls cannot be considered as available to meet the recovery and orderly wind-down plan for general business risk, operational risk, and other risks (or vice-versa). This may result in the need to maintain a larger quantum of total resources to meet both plans which, depending on the resources maintained, may involve costs arising from factors such as greater use of capital by the DCO, or greater capital charges for clearing members arising out of their commitments to contribute default resources.

As discussed in section II.K. above, the Commission requests comments on the potential costs to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.39, and any costs that would be imposed on other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to establish, consistent with the PFMIs, a requirement for the adoption of a recovery and wind-down plan, and the costs (or cost savings) associated with such alternatives.

b. Benefits

As explained in the subsections that follow, this proposed rule would hold SIDCOs and Subpart C DCOs to enhanced regulatory standards, which are designed to promote the financial strength, operational integrity, security, and reliability of these organizations and to reduce the likelihood of their disruption or failure. This would then increase the overall stability of the U.S. financial markets. As the PFMIs note, FMIs, including CCPs (*i.e.* DCOs), play a critical role in fostering financial stability.[202] This is particularly the case with respect to SIDCOs. The Council has determined that the failure of or a disruption to the functioning of a SIDCO could create or increase the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the U.S. financial system.[203]

In addition, the proposed regulations would help ensure that SIDCOs and Subpart C DCOs are held to international standards in order to provide them with the opportunity to gain QCCP status. As discussed above, attaining QCCP status would provide clearing members that are banks, as well as banks that are customers of clearing members, with the benefit of complying with less onerous capital requirements, pursuant to the Basel CCP Capital Requirements, than if the SIDCO or

[201] *See supra* Section II.J (discussing proposed regulation 39.38).

[202] PFMIs, E.N. 1.1.

[203] *See http://www.treasury.gov/initiatives/fsoc/designations/Pages/default.aspx* (describing the designations of CME and ICE Clear Credit to be systemically important financial market utilities) and *see supra* Section I.C.

Subpart C DCO were not a QCCP.[204] In turn, this may increase a SIDCO or Subpart C DCO's competitiveness vis-à-vis non-U.S. clearing organizations that demonstrate compliance with international standards and are QCCPs.

i. Regulation 39.31 (Election To Become Subject to the Provisions of Subpart C)

The procedures set forth in proposed regulation 39.31, together with the proposed Subpart C Election Form, are intended to promote the protection of market participants and the public. These proposed procedures would require the Commission's staff to conduct a comprehensive and thorough review of a DCO that elects to become subject to the provisions of Subpart C. In addition, the international Basel CCP Capital Requirements provide incentives for banks to clear derivatives through CCPs that are qualified CCPs or ''QCCPs'' by setting lower capital charges for exposures arising from derivatives cleared through a QCCP and setting significantly higher capital charges for exposures arising from derivatives cleared through non-qualifying CCPs. These proposed regulations are consistent with the international standards set forth in the PFMIs and address the remaining divergences between part 39 of the Commission's regulations and the PFMIs, which will provide an opportunity for a Subpart C DCO to gain QCCP status.

Without regulation 39.31, a DCO that is not designated by the Council as being systemically important would not have the opportunity to gain QCCP status, thereby potentially putting such a DCO at a significant competitive disadvantage compared to SIDCOs and non-U.S. clearing organizations. This would ultimately be to the detriment of such a DCO's clearing members and their customers.[205] The Commission also notes that by clearing through a Subpart C DCO, a clearing member and its customers would be afforded the benefits of clearing through a DCO subject to enhanced risk management, operational, and other standards. The Commission requests comment concerning the extent to which clearing members and their customers would benefit from the additional standards to which a Subpart C DCO and SIDCO would be subject.

Proposed regulation 39.31 would provide a benefit to a Subpart C DCO by allowing the Subpart C DCO to weigh for itself the costs and benefits of maintaining QCCP status. The notice requirements would provide important benefits to clearing members of the rescinding Subpart C DCO (and their customers), particularly those that are banks or bank affiliates, by providing them with advance notice to permit them to assess their options and take any actions they deem appropriate with respect to clearing at a DCO that has acted to rescind its election to be held to the standards of Subpart C (and thus to renounce status as a QCCP).

In addition to the requests for comments detailed above, the Commission invites public comment on its cost-benefit considerations. Specifically, the Commission seeks comment, including quantitative data, if available, concerning the costs and benefits associated with having an opt-in process for DCOs that have not been designated as systemically important by the Council to elect to be subject to Subpart C, the proposed process for that election, and the costs and benefits that may be incurred and realized by the clearing members and customers of a Subpart C DCO that rescinds its election to become subject to the provisions of Subpart C. In addition, the Commission seeks comment on whether the notice requirements, the 90 day notice period and the requirements set forth in proposed regulation 39.31(e)(3)(iii) are sufficient to mitigate the costs associated with a Subpart C DCO's ability to rescind its election. Commenters are also invited to submit with their comment letters any data or other information that they may have quantifying or qualifying the costs and benefits of the proposed regulations.

ii. Regulation 39.32 (Governance for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The requirements set forth in proposed regulation 39.32 would appear to be beneficial to the extent that they cause a SIDCO or Subpart C DCO to internalize and/or more appropriately allocate certain costs that would otherwise be borne by clearing members, customers of clearing members, and other relevant stakeholders. Such requirements would also appear to promote market stability because the governance arrangements of SIDCOs and Subpart C DCOs would be required to explicitly support the stability of the financial system and other relevant public interest considerations of clearing members, customers of clearing members, and other relevant stakeholders,[206] and reflect the legitimate interests of clearing members, customers of clearing members, and other relevant stakeholders. Finally, the governance arrangements required by proposed regulation 39.32 would promote a more efficient, effective, and reliable DCO risk management and operating structure.

As discussed in section II.D. above, the Commission requests comments on the potential benefits to a SIDCO and a Subpart C DCO in complying with all aspects of proposed regulation 39.32, and any benefits that would be realized by other market participants (including members of such a DCO and their customers) or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

iii. Regulation 39.33 (Financial Resources for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As described above, proposed regulation 39.33(a), as revised, would be expanded to include Subpart C DCOs and require those Subpart C DCOs that engage in an activity with a more complex risk profile (*e.g.,* clearing credit default swaps or credit default futures), or that are systemically important in multiple jurisdictions, to comply with the Cover Two minimum financial resources requirement.[207] This regulation currently applies to SIDCOs. Proposed regulation 39.33(a) would increase the financial stability of Subpart C DCOs that are engaged in activities with a more complex risk profile or that are systemically important in multiple jurisdictions because it would require such Subpart C DCOs to comply with enhanced minimum financial resource requirements. Compliance with such standards, in turn, could increase the overall stability of the U.S. financial markets because enhancing a Subpart C DCO's financial resources requirements from the minimum of Cover One to a more stringent Cover Two standard helps to ensure the affected Subpart C DCO will have greater financial resources to meet its obligations to market participants, including in the case of defaults by multiple clearing members. These added financial resources lessen the likelihood of the

[204] *See supra* Section I.F.

[205] *See supra* Section I.F (discussing QCCP status and the Basel CCP Capital Requirements); *see also supra* Section II.C. (discussing proposed regulation 39.31).

[206] *See supra* Section II.D (discussing proposed regulation 39.32).

[207] *See supra* Section II.E (discussing proposed revised regulation 39.33).

Subpart C DCO's failure which, in times of market turmoil, could increase the risk to the stability of the U.S. financial system.[208] By bolstering certain Subpart C DCO's resources, regulation 39.33(a) contributes to the financial integrity of the financial markets and reduces the likelihood of systemic risk from spreading through the financial markets due to the Subpart C DCO's failure or disruption. In addition, the approach of obtaining resources in such low-stress periods avoids the need to call for additional resources from clearing members during less stable, more volatile times, which would have pro-cyclical effects on the U.S. financial markets.

As described above, proposed regulation 39.33(a)(2) would provide the Commission with the ability to determine that a SIDCO or a Subpart C DCO is systemically important in multiple jurisdictions, considering whether the DCO is a SIDCO and whether the DCO has been determined to be systemically important by one or more foreign jurisdictions pursuant to a designation process that considers whether the foreseeable effects of a failure or disruption of the SIDCO or Subpart C DCO could threaten the stability of each relevant jurisdiction's financial system. Moreover, proposed regulation 39.33(a)(3) would provide the Commission with the ability to expand the definition of ''activity with a more complex risk profile'' beyond clearing credit default swaps or credit default futures. These provisions give the Commission the flexibility to determine, under appropriate circumstances, what particular SIDCOs or Subpart C DCOs (or DCOs that engage in certain activities) would need to maintain Cover Two default resources. Such a decision would help to ensure that the affected SIDCO or Subpart C DCO would have greater financial resources to meet its obligations to market participants, including in the case of defaults by multiple clearing members. These added financial resources would decrease the likelihood that the SIDCO or Subpart C DCO would fail, thus contributing to the integrity and stability of the financial markets.

Proposed regulation 39.33 would also prohibit a Subpart C DCO from using assessments to meets its default resource obligations, *i.e.,* those under regulations 39.11(a)(1) and 39.33(a). This prohibition currently applies to SIDCOs. Prohibiting the use of assessments by a Subpart C DCO in meeting its default resource requirement would appear to increase the financial stability of the Subpart C DCO, which in turn, would increase the overall stability of the U.S. financial markets.

Assessment powers are more likely to be exercised during periods of financial market stress. If, during such a period, a clearing member defaults and the loss to the Subpart C DCO is sufficiently large to deplete (1) the collateral posted by the defaulting clearing member, (2) the defaulting clearing member's guaranty fund contribution, and (3) the remaining pre-funded default fund contributions, a Subpart C DCO's exercise of assessment powers over the non-defaulting clearing members may exacerbate a presumably already weakened financial market. The demand by a Subpart C DCO for more capital from its clearing members could force one or more additional clearing members into default because they cannot meet the assessment. The inability to meet the assessment could lead clearing members and/or their customers to de-leverage (*i.e.,* sell off their positions) in falling asset markets, which further drives down asset prices and may result in clearing members and/or their customers defaulting on their obligations to each other and/or to the Subpart C DCO. In such extreme circumstances, assessments could trigger a downward spiral and lead to the destabilization of the financial markets. Prohibiting the use of assessments by a Subpart C DCO in meeting default resources requirements is intended to require the Subpart C DCO to retain more financial resources upfront, *i.e.,* to prefund its financial resources requirement to cover its potential exposure.

The increase in prefunding of financial resources by a Subpart C DCO may increase costs to clearing members of that Subpart C DCO (*e.g.,* requiring clearing members to post additional funds with the Subpart C DCO), but it also reduces the likelihood that the Subpart C DCO will require additional capital infusions during a time of financial stress when raising such additional capital is expensive relative to market norms. By increasing prefunded financial resources, a Subpart C DCO becomes less reliant on the ability of its clearing members to pay an assessment, more secure in its ability to meets its obligations, and more viable in any given situation, even in the case of multiple defaults of clearing members. Accordingly, proposed regulation 39.33(b) would increase the financial security and reliability of the Subpart C DCO, which will, therefore, further increase the overall stability of the U.S. financial markets.

As described above, proposed regulation 39.33(c) would require a SIDCO or Subpart C DCO to maintain a minimum level of eligible liquidity resources that would permit the DCO to satisfy its intraday, same-day, and multi-day settlement obligations in all relevant currencies. Proposed regulation 39.33(d) would require a SIDCO or Subpart C DCO to undertake due diligence to confirm that each liquidity provider upon which the DCO relies has the capacity to perform its commitments to provide liquidity (and to regularly test its own procedures for accessing its liquidity resources) and would require a SIDCO with access to accounts and services at a Federal Reserve Bank to use such services where practical. Proposed regulation 39.33(e) would require a SIDCO or Subpart C DCO to document its supporting rationale for, and to have adequate governance arrangements relating to, the amount of total financial resources it maintains and the amount of total liquidity resources it maintains.

These requirements would increase the likelihood that a SIDCO or Subpart C DCO would promptly meet its settlement obligations in a variety of market conditions. In determining the resources that would be necessary to meet the qualifying liquid resources requirements, a SIDCO or Subpart C DCO may need to undertake a complex analysis of the SIDCO's or Subpart C DCO's exposures and processes, including various models, and, where appropriate, designing and implementing changes to either create or modify existing internal processes and documenting the rationale for the amount of total financial and total liquidity resources the SIDCO or Subpart C DCO maintains. These efforts are likely to contribute to a better *ex ante* understanding by the SIDCO's or Subpart C DCO's management of the liquidity risks the DCO is likely to face in a stress scenario, resources that are calculated to enable the DCO to completely meets its settlement obligations on a prompt basis despite the default of a clearing member, and better assurance of its ability to rely on the commitments of its liquidity providers.

The result of this analysis and these enhanced resources is likely to be better preparation to meet liquidity challenges promptly, and a greater likelihood that the DCO would efficiently and effectively meet its obligations promptly in a default scenario. This improved preparation and enhanced likelihood of the SIDCO or Subpart C DCO's prompt meeting of its own obligations will benefit the DCO's clearing members and

[208] *See supra* Section I.B.

their customers by avoiding an inability to meet settlement obligations that might cause knock-on liquidity problems to such clearing members and their customers. The harm to clearing members and customers from a failure of a SIDCO or Subpart C DCO to meet its obligations promptly would be especially serious in a time of general financial stress. The assurance of the DCO meeting its settlement obligations promptly would also redound to the benefit of the larger financial system by mitigating systemic risk.

As discussed in section II.E. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.33, and any benefits that would be realized by other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

iv. Regulation 39.34 (System Safeguards for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As discussed above, proposed amended regulation 39.34 would require SIDCOs and Subpart C DCOs to comply with enhanced system safeguards requirements.[209] While SIDCOs are already subject to these requirements, the Commission proposes expanding this regulation to include Subpart C DCOs. A two-hour RTO in a Subpart C DCO's BC–DR plan would increase the soundness and operating resiliency of the Subpart C DCO. The two-hour RTO ensures that even in the event of a wide-scale disruption, the potential negative effects upon U.S. financial markets would be minimized because the affected Subpart C DCO would recover rapidly and resume its critical market functions. This would allow other market participants to process their transactions, including those participants in locations not directly affected by the disruption. The two-hour RTO would increase a Subpart C DCO's resiliency by requiring the Subpart C DCO to have the resources and technology necessary to resume operations promptly. This resiliency, in turn, would increase the overall stability of the U.S. financial markets.

As discussed in section II.F. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.34, and any benefits that would be realized by other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

v. Regulation 39.35 (Default Rules and Procedures for Uncovered Losses or Shortfalls (Recovery) for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As discussed above, proposed regulation 39.35 would require SIDCOs and Subpart C DCOs to adopt explicit rules and procedures for: (i) Allocating uncovered credit losses and (ii) meeting all settlement obligations in a variety of market conditions.[210] The analysis SIDCOs and Subpart C DCOs would need to perform to create these rules and procedures are likely to contribute to a better ex ante understanding by the SIDCO or Subpart C DCO of the scenarios that would lead to uncovered credit losses or liquidity shortfalls. This analysis would also enable the SIDCO or Subpart C DCO to more effectively and efficiently meet its obligations promptly, thereby avoiding harm to clearing members and their customers from a default. In addition, requiring SIDCOs and Subpart C DCOs to have clear rules and procedures addressing such scenarios would be beneficial for clearing members and their customers in that these rules and procedures would provide clearing members with a better understanding of the members' own obligations, and the extent to which the SIDCO or Subpart C DCO would perform its obligations to its clearing members during periods of market stress. This understanding would, in turn, contribute to the ability of clearing members and their customers to tailor their own contingency plans to address those circumstances. Improved preparation by SIDCOs, Subpart C DCOs, and their clearing members will also redound to the benefit of the larger financial system by mitigating systemic risk.

As discussed in section II.G. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.35, and any benefits that would be realized by other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

vi. Regulation 39.36 (Risk Management for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As discussed above, the enhanced risk management requirements set forth in proposed regulation 39.36 are designed to help SIDCOs and Subpart C DCOs manage their risk exposure.[211] For example, the proposed provisions would require SIDCOs and Subpart C DCOs to stress test their financial resources, stress test their liquidity resources, and conduct regular sensitivity analyses of their margin methodologies. The analyses performed under the proposed requirements would appear to increase the DCO's ability to mitigate and address credit risks, and to create proper incentives for members with respect to the exposures they create to the SIDCO or Subpart C DCO by enabling the DCO to tie risk exposures to margin requirements. In addition, proposed regulation 39.36 would require a SIDCO or Subpart C DCO to monitor, manage and limit its credit and liquidity risks arising from its settlement banks, as well invest its own funds and assets in instruments with minimal credit, market, and liquidity risks. This provision would also appear to increase the SIDCO's or Subpart C DCO's ability to mitigate and address the probability of being exposed to a settlement bank's failure and the potential losses and liquidity pressures to which the SIDCO or Subpart C DCO would be exposed in the event of such a failure. This, in turn, would benefit members of such DCOs and their customers, as discussed above. It would also appear that by enhancing the reliability and stability of SIDCOs and Subpart C DCOs, the overall stability of the U.S. financial markets will be strengthened.

As discussed in section II.H. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.36, and any benefits that would be realized by members of such DCOs and their customers, as well as other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

[194] *See supra* Section II.F (discussing proposed regulation 39.34).

[210] *See supra* Section II.G (discussing proposed regulation 39.35).

[211] *See supra* Section II.H (discussing proposed regulation 39.36).

vii. Regulation 39.37 (Additional Disclosure for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The disclosure requirements set forth in proposed regulation 39.37 [212] would be beneficial to clearing members of SIDCOs and Subpart C DCOs, as well as to customers of clearing members, because they would provide transparency and certainty concerning the processes, operations and exposures of these DCOs. In particular, proposed paragraph (d) would require a SIDCO or Subpart C DCO to publicly disclose its policies and procedures concerning the segregation and portability of customers' positions and funds. These disclosures would enable clearing members and their customers to better understand their respective exposures to the SIDCO or Subpart C DCO, to better choose a DCO that fits their needs, and, in turn, to create incentives for safe and effective operations of SIDCOs and Subpart C DCOs.

As discussed in section II.I. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.37, and any benefits that would be realized by members of such DCOs and their customers, as well as other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

viii. Regulation 39.38 (Efficiency for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

The efficiency requirements set forth in proposed regulation 39.38 would be beneficial to clearing members of SIDCOs and Subpart C DCOs, as well as to customers of clearing members, because they would require these DCOs to regularly endeavor to improve their clearing and settlement arrangements, operating structures and procedures, product offerings, and use of technology. In addition, SIDCOs and Subpart C DCOs would be required to facilitate efficient payment, clearing and settlement by accommodating internationally accepted communication procedures and standards, which could result in operational efficiency for market participants. As a result, members of such DCOs and their customers, as well as the marketplace more broadly, may be offered more efficient clearing services that may be easier to access at an operational level.

As discussed in section II.J. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.38, and any benefits that would be realized by members of such DCOs, their customers, as well as other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

ix. Regulation 39.39 (Recovery and Wind-Down for Systemically Important Derivatives Clearing Organizations and Subpart C Derivatives Clearing Organizations)

As discussed above, proposed regulation 39.39 would require a SIDCO and Subpart C DCO to maintain viable plans for recovery and orderly wind-down, in cases necessitated by (1) credit losses or liquidity shortfalls and (2) general business risk, operational risk, or any other risk that threatens the derivatives clearing organization's viability as a going concern. This would require the DCO to identify scenarios that may prevent a SIDCO or Subpart C DCO from being able to provide its critical operations and services as a going concern and to assess the effectiveness of a full range of options for recovery or orderly wind-down.

The proposed regulation would also require a SIDCO or Subpart C DCO to evaluate the resources available to meet the plan to cover credit losses and liquidity shortfalls, and to maintain sufficient unencumbered liquid financial assets to implement the plan to cover other risks. The latter point requires a SIDCO or Subpart C DCO to analyze whether its particular circumstances and risks require it to maintain liquid net assets to fund the plan that are in addition to those resources currently required by regulation 39.11(a)(2).[213]

The complex analysis and plan preparation that a SIDCO or Subpart C DCO would undertake to comply with the proposed regulation, including designing and implementing changes to existing plans, are likely to contribute to a better *ex ante* understanding by the SIDCO's or Subpart C DCO's management of the challenges the DCO would face in a recovery or wind-down scenario, and thus better preparation to meet those challenges. This improved preparation would help reduce the possibility of market disruptions and financial losses to clearing members and their customers. By maintaining and regularly updating recovery and wind-down plans, and maintaining resources and arrangements designed to meet the requirements of such plans, the DCO will better be able to mitigate the impact that a threat to, or a disruption of, a SIDCO's or Subpart C DCO's operations would have on customers, clearing members, and, more broadly, the stability of the U.S. financial markets. By reducing the possibility that a DCO would default in a disorganized fashion, the proposed regulation would also help to reduce the likelihood of a failure by the DCO to meet its obligations to its members, thereby enhancing protection for members of such a DCO and their customers, as well as helping to avoid the systemic effects of DCO failure.

As discussed in section II.K. above, the Commission requests comments on the potential benefits to a SIDCO or a Subpart C DCO in complying with all aspects of proposed regulation 39.39, and any benefits that would be realized by members of such DCOs and their customers, as well as other market participants or the financial system more broadly. As noted above, the Commission specifically requests comment on alternative means to address these issues, and the benefits associated with such alternatives.

4. *Section 15(a) Factors*

i. Protection of Market Participants and the Public

The proposed regulations create additional standards for compliance with the CEA, which include governance standards, enhanced financial resources and liquidity resource requirements, system safeguard requirements, special default rules and procedures for uncovered losses or shortfalls, enhanced risk management requirements, additional disclosure requirements, efficiency standards, and standards for recovery and wind-down procedures. They also include procedures for Subpart C DCOs to elect to be held to such additional standards, and procedures to rescind such election. These standards and procedures would further the protection of members of SIDCOs and Subpart C DCOs, customers of such members, as well as other market participants and the public by increasing the financial stability and operational security of SIDCOs and Subpart C DCOs. These proposed regulations could, more broadly, increase the stability of the U.S.

[212] *See supra* Section II.I (discussing proposed regulation 39.37).

[213] *See supra* Section II.K (discussing proposed regulation 39.39).

financial markets. A designation of systemic importance under Title VIII means the failure of a SIDCO or the disruption of its clearing and settlement activities could create or increase the risk of significant liquidity or credit problems spreading among financial institutions or markets, thereby threatening the stability of the U.S. financial markets. The regulations contained in this proposed rule are designed to help ensure that SIDCOs continue to function even in extreme circumstances, including multiple defaults by clearing members and wide-scale disruptions. While there may be increased costs associated with the implementation of the proposed rules, the increased costs associated with the implementation of the proposed rules for Subpart C DCOs would be borne only by those DCOs that have not been designated systemically important under Title VIII and that elect to become subject to the provisions of Subpart C. Some of those costs would ultimately be borne by clearing members of such Subpart C DCOs, and by customers of such clearing members.

The costs of this rulemaking would be mitigated by the countervailing benefits of stronger resources, improved design, more efficient and effective processes, and enhanced planning that would lead to increased safety and soundness of SIDCOs and the reduction of systemic risk, which protect market participants and the public from the adverse consequences that would result from a SIDCO's failure or a disruption in its functioning. Similarly, the proposed regulations would increase the safety and soundness of Subpart C DCOs so that they may continue to operate even in extreme circumstances, which would, in turn, better protect members of such DCOs, their customers, and also market participants and the public, particularly during time of severe market stress.

ii. Efficiency, Competitiveness, and Financial Integrity

The regulations set forth in this proposed rulemaking would promote the financial strength and stability of SIDCOs and Subpart C DCOs, as well as, more broadly, efficiency and greater competition in the global markets. Proposed regulation 39.38 expressly promotes efficiency in the design of a SIDCO's or Subpart C DCO's settlement and clearing arrangements, operating structure and procedures, scope of products cleared, and use of technology. The proposed regulation also requires SIDCOs and Subpart C DCOs to accommodate internationally accepted communication procedures and standards to facilitate efficient payment, clearing, and settlement. In addition, the proposed regulations promote efficiency insofar as SIDCOs and Subpart C DCOs that operate with enhanced financial and liquidity resources, enhanced risk management requirements, increased system safeguards, and wind-down or recovery plans are more secure and are less likely to fail.

The proposed regulations would also promote competition because they are consistent with the international standards set forth in the PFMIs and will help to ensure that SIDCOs are held to international standards and thus are enabled to gain QCCP status and accordingly avoid an important competitive disadvantage relative to similarly situated foreign CCPs that meet international standards and are QCCPs. Moreover, by allowing other DCOs to elect to become subject to the provisions of Subpart C and thus the opportunity to meet international standards and to gain QCCP status, the proposed regulations promote competition among registered DCOs, and between registered DCOs and foreign CCPs that meet international standards and are QCCPs. Conversely, the Commission notes that these enhanced financial resources and risk management standards are also associated with additional costs and to the extent that SIDCOs and Subpart C DCOs pass along the additional costs to their clearing members and, indirectly, those clearing members' customers, participation in the affected markets may decrease and have a negative impact on price discovery. However, it would appear that such higher transactional costs should be offset by the lower capital charges granted to clearing members and customers for exposures resulting from transactions that are cleared through SIDCOs and Subpart C DCOs that are also QCCPs.

Additionally, enhanced risk management and operational standards would promote financial integrity by leading to SIDCOs and Subpart C DCOs to be more secure and less likely to fail. By increasing the stability and strength of the SIDCOs and Subpart C DCOs, the proposed regulations would help SIDCOs and Subpart C DCOs to meet their obligations in extreme circumstances and be able to resume operations even in the face of wide-scale disruption, which contributes to the financial integrity of the financial markets. Moreover, in requiring (1) more financial resources to be pre-funded by expanding the potential losses those resources are intended to cover and restricting the means for satisfying those resource requirements, and (2) requiring greater liquidity resources, the requirements of these proposed regulations seek to lessen the incidence of pro-cyclical demands for additional resources and, in so doing, promote both financial integrity and market stability. These efforts would redound to the benefit of clearing members and their customers, as well as the financial system more broadly.

iii. Price Discovery

The regulations in this proposed rulemaking would enhance financial resources, liquidity resources, risk management standards, disclosure standards, and recovery planning for SIDCOs and Subpart C DCOs which may result in increased public confidence, which, in turn, might lead to expanded participation in the affected markets (including markets with products with a more complex risk profile). The expanded participation in these markets (*i.e.,* greater transactional volume) may have a positive impact on price discovery. Conversely, the Commission notes that these proposed regulations are also associated with additional costs and to the extent that SIDCOs and Subpart C DCOs pass along the additional costs to their clearing members and, indirectly, to their clearing members' customers, participation in the affected markets may decrease and have a negative impact on price discovery. However, it is the Commission's belief that such higher transactional costs should be offset by the lower capital charges granted to clearing members and customers with exposures resulting from transactions cleared through SIDCOs and Subpart C DCOs that are deemed QCCPs.

iv. Sound Risk Management Practices

The regulations in this proposed rulemaking contribute to the sound risk management practices of SIDCOs and Subpart C DCOs because the requirements would promote the safety and soundness of SIDCOs and Subpart C DCOs by: (1) Enhancing the financial resources requirements and liquidity resource requirements; (2) enhancing understanding of credit and liquidity risks and related governance arrangements; (3) enhancing system safeguards to facilitate the continuous operation and rapid recovery of activities; [214] (4) enhancing risk management standards by creating new stress testing and sensitivity analysis

[214] As mentioned above, this proposed rulemaking would extend to Subpart C DCOs the system safeguards requirements currently applicable to SIDCOs. *See supra* Section II.F (discussing proposed revised regulation 39.34 (system safeguards)).

requirements; (5) promoting the active management of credit and liquidity risks arising from settlement banks; [215] and (6) enhancing risk management by establishing rules and procedures addressing uncovered credit losses or liquidity shortfalls, and recovery and wind-down planning for credit risks and for business continuity and operational risks.[216] In addition, by strengthening financial and liquidity resource requirements, enhancing risk management standards, and enhancing disclosure and recovery planning requirements, these proposed regulations would provide greater certainty for clearing members of such DCOs, their customers, and other market participants that obligations of the SIDCOs and Subpart C DCOs will be honored, and provide certainty and security to market participants that potential disruptions will be reduced and, by extension, the risk of loss of capital and liquidity will be reduced.

v. Other Public Interest Considerations

The Commission notes the strong public interest for jurisdictions to either adopt the PFMIs or establish standards consistent with the PFMIs in order to allow CCPs licensed in the relevant jurisdiction to gain QCCP status. As emphasized throughout this proposed rulemaking, SIDCOs and Subpart C DCOs that are held to international standards and that gain QCCP status might hold a competitive advantage in the financial markets by, *inter alia,* helping bank clearing members and bank customers avoid the much higher capital charges imposed by the Basel CCP Capital Requirements on exposures to non-QCCPs. Moreover, because ''enhancements to the regulation and supervision of systemically important financial market utilities . . . are necessary . . . to support the stability of the broader financial system,'' [217] adopting these proposed rules would promote the public interest in a more stable broader financial system.

List of Subjects in 17 CFR Part 39

Commodity futures, Risk management, Settlement procedures, Default rules and procedures, System safeguards.

For the reasons stated in the preamble, the Commission proposes to amend 17 CFR part 39 as follows:

[215] *See supra* Section II.H (discussing proposed regulation 39.36).

[216] *See supra* Section II.G (discussing proposed regulation 39.35); *see also supra* Section II.K (discussing proposed regulation 39.39).

[217] *See* Section 802(a)(4) of the Dodd-Frank Act (Congressional Findings).

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

■ 1. The authority citation for part 39 is amended to read as follows:

Authority: 7 U.S.C. 2, 7a–1, and 12a; 12 U.S.C. 5464; 15 U.S.C. 8325.

■ 2. Revise § 39.2 to read as follows:

§ 39.2 Definitions.

For the purposes of this part: *Activity with a more complex risk profile* includes:

(1) Clearing credit default swaps, credit default futures, or derivatives that reference either credit default swaps or credit default futures and

(2) Any other activity designated as such by the Commission pursuant to § 39.33(a)(3).

Back test means a test that compares a derivatives clearing organization's initial margin requirements with historical price changes to determine the extent of actual margin coverage.

Customer means a person trading in any commodity named in the definition of commodity in section 1a(9) of the Act or in § 1.3 of this chapter, or in any swap as defined in section 1a(47) of the Act or in § 1.3 of this chapter; *Provided, however,* an owner or holder of a house account as defined in this section shall not be deemed to be a customer within the meaning of section 4d of the Act, the regulations that implement sections 4d and 4f of the Act and § 1.35, and such an owner or holder of such a house account shall otherwise be deemed to be a customer within the meaning of the Act and §§ 1.37 and 1.46 of this chapter and all other sections of these rules, regulations, and orders which do not implement sections 4d and 4f of the Act.

Customer account or *customer origin* means a clearing member account held on behalf of customers, as that term is defined in this section, and which is subject to section 4d(a) or section 4d(f) of the Act.

Depository institution has the meaning set forth in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

House account or *house origin* means a clearing member account which is not subject to section 4d(a) or 4d(f) of the Act.

Key personnel means derivatives clearing organization personnel who play a significant role in the operations of the derivatives clearing organization, the provision of clearing and settlement services, risk management, or oversight of compliance with the Act and Commission regulations and orders. Key personnel include, but are not limited to, those persons who are or perform the functions of any of the following: Chief executive officer; president; chief compliance officer; chief operating officer; chief risk officer; chief financial officer; chief technology officer; and emergency contacts or persons who are responsible for business continuity or disaster recovery planning or program execution.

Stress test means a test that compares the impact of potential extreme price moves, changes in option volatility, and/or changes in other inputs that affect the value of a position, to the financial resources of a derivatives clearing organization, clearing member, or large trader, to determine the adequacy of the financial resources of such entities.

Subpart C derivatives clearing organization means any derivatives clearing organization, as defined in section 1a(15) of the Act and § 1.3(d) of this chapter, which:

(1) Is registered as a derivatives clearing organization under section 5b of the Act;

(2) Is not a systemically important derivatives clearing organization; and

(3) Has become subject to the provisions of this Subpart C, pursuant to § 39.31.

Systemically important derivatives clearing organization means a financial market utility that is a derivatives clearing organization registered under section 5b of the Act, which is currently designated by the Financial Stability Oversight Council to be systemically important and for which the Commission acts as the Supervisory Agency pursuant to 12 U.S.C. 5462(8).

U.S. branch and agency of a foreign banking organization means the U.S. branch and agency of a foreign banking organization as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

Trust company means a trust company that is a member of the Federal Reserve System, under section 1 of the Federal Reserve Act (12 U.S.C. 221), but that does not meet the definition of depository institution.

■ 3. In Subpart B, add and reserve §§ 39.28 and 39.29.

■ 4. Revise Subpart C to read as follows:

Subpart C—Provisions Applicable to Systemically Important Derivatives Clearing Organizations and Derivatives Clearing Organizations That Elect To Be Subject to the Provisions of Subpart C

Sec.

Subpart C—Provisions Applicable to Systemically Important Derivatives Clearing Organizations and Derivatives Clearing Organizations That Elect To Be Subject to the Provisions of Subpart C

§ 39.30 Scope.

(a) The provisions of this subpart C apply to each of the following: A subpart C derivatives clearing organization, a systemically important derivatives clearing organization, and any derivatives clearing organization, as defined under section 1a(15) of the Act and § 1.3(d) of this chapter, seeking to become a subpart C derivatives clearing organization pursuant to § 39.31.

(b) A systemically important derivatives clearing organization is subject to the provisions of subparts A and B of this part in addition to the provisions of this subpart.

(c) A subpart C derivatives clearing organization is subject to the provisions of subparts A and B of this part in addition to the provisions of this subpart except for §§ 39.41 and 39.42 of this subpart.

§ 39.31 Election to become subject to the provisions of subpart C.

(a) *Election eligibility.* (1) A derivatives clearing organization that is registered with the Commission and that is not a systemically important derivatives clearing organization may elect to become a subpart C derivatives clearing organization subject to the provisions of this subpart, using the procedures set forth in paragraph (b) of this section.

(2) An applicant for registration as a derivatives clearing organization pursuant to § 39.3 may elect to become a subpart C derivatives clearing organization subject to the provisions of this subpart as part of its application for registration using the procedures set forth in paragraph (c) of this section.

(b) *Election and withdrawal procedures applicable to registered derivatives clearing organizations.* (1) Election. A derivatives clearing organization that is registered with the Commission and that is not a systemically important derivatives clearing organization may request that the Commission accept its election to become a subpart C derivatives clearing organization by filing with the Commission a completed Subpart C Election Form. The Subpart C Election Form shall include the election and all certifications, disclosures and exhibits, as provided in appendix B to this part and any amendments or supplements thereto filed with the Commission pursuant to paragraphs (b)(2) and (b)(3) of this section.

(2) Submission of supplemental information. The filing of a Subpart C Election Form does not create a presumption that the Subpart C Election Form is materially complete or that supplemental information will not be required. The Commission, at any time prior to the effective date, as provided in paragraph (b)(4) of this section, may request that the derivatives clearing organization submit supplemental information in order for the Commission to process the Subpart C Election Form, and the derivatives clearing organization shall file such supplemental information with the Commission.

(3) Amendments. A derivatives clearing organization shall promptly amend its Subpart C Election Form if it discovers a material omission or error in, or if there is a material change in, the information provided to the Commission in the Subpart C Election Form or other information provided in connection with the Subpart C Election Form.

(4) Effective date. A derivatives clearing organization's election to become a subpart C derivatives clearing organization shall become effective:

(i) Upon the later of the following, provided the Commission has neither stayed nor denied such election as set forth in paragraph (b)(5) of this section.

(A) The effective date specified by the derivatives clearing organization in its Subpart C Election Form; or

(B) Ten business days after the derivatives clearing organization files its Subpart C Election Form with the Commission;

(ii) Or upon the effective date set forth in written notification from the Commission that it shall permit the election to take effect after a stay issued pursuant to paragraph (b)(5) of this section.

(5) Stay or denial of election. Prior to the effective date set forth in paragraph (b)(4)(i) of this section, the Commission may stay or deny a derivatives clearing organization's election to become a subpart C derivatives clearing organization by issuing a written notification thereof to the derivatives clearing organization.

(6) Commission acknowledgement. The Commission may acknowledge, in writing, that it has received a Subpart C Election Form filed by a derivatives clearing organization and that it has permitted the derivatives clearing organization's election to become subject to the provisions of this subpart C to take effect, and the effective date of such election.

(7) Withdrawal of election. A derivatives clearing organization that has filed a Subpart C Election Form may withdraw an election to become subject to the provisions of this subpart C at any time prior to the date that the election is permitted to take effect by filing with the Commission a notice of the withdrawal of election.

(c) *Election and withdrawal procedures applicable to applicants for registration as derivatives clearing organization*—(1) Election. An applicant for registration as a derivatives clearing organization that requests an election to become subject to the provisions of this subpart C may make that request by attaching a completed Subpart C Election Form to the Form DCO that it files pursuant to § 39.3. The Subpart C Election Form shall include the election and all certifications, disclosures and exhibits, as provided in appendix B to part 39, and any amendments or supplements thereto filed with the Commission pursuant to paragraphs (c)(3) or (c)(4) of this section.

(2) Election review and effective date. The Commission shall review the applicant's Subpart C Election Form as part of the Commission's review of its

application for registration pursuant to § 39.3(a). The Commission may permit the applicant's election to take effect at the time it approves the applicant's application for registration by providing written notice thereof to the applicant. The Commission shall not approve any application for registration filed pursuant to § 39.3(a) for which a Subpart C Election Form is pending, if the Commission determines that the applicant's election to become subject to Subpart C should not become effective because the applicant has not demonstrated its ability to comply with the applicable provisions of this subpart.

(3) Submission of supplemental information. The filing of a Subpart C Election Form does not create a presumption that the Subpart C Election Form is materially complete or that supplemental information will not be required. At any time during the Commission's review of the Subpart C Election Form, the Commission may request that the applicant submit supplemental information in order for the Commission to process the Subpart C Election Form and the applicant shall file such supplemental information with the Commission.

(4) Amendments. An applicant for registration as a derivatives clearing organization shall promptly amend its Subpart C Election Form if it discovers a material omission or error in, or if there is a material change in, the information provided to the Commission in the Subpart C Election Form or other information provided in connection with the Subpart C Election Form.

(5) Withdrawal of election. An applicant for registration as a derivatives clearing organization may withdraw an election to become subject to the provisions of this subpart C by filing with the Commission a notice of the withdrawal of its Subpart C Election Form at any time prior to the date that the Commission approves its application for registration as a derivatives clearing organization. The applicant may withdraw its Subpart C Election Form without withdrawing its Form DCO.

(d) *Public information.* The following portions of the Subpart C Election Form will be public: The Elections and Certifications and Disclosures in the Subpart C Election Form, the rules of the derivatives clearing organization, the regulatory compliance chart, and any other portion of the Subpart C Election Form not covered by a request for confidential treatment complying with the requirements of § 145.9 of this chapter.

(e) *Rescission of election*—(1) Notice of intent to rescind. A subpart C derivatives clearing organization may rescind its election to be subject to the provisions of this subpart C and terminate its status as a subpart C derivatives clearing organization by filing with the Commission a notice of its intent to rescind such election. The notice of intent to rescind the election shall include:

(i) The effective date of the rescission; and

(ii) A certification signed by the relevant duly authorized representative of the subpart C derivatives clearing organization, as specified in paragraph three of the General Instructions to the Subpart C Election Form, stating that the subpart C derivatives clearing organization:

(A) Has provided the notice to its clearing members required by paragraph (e)(3)(i)(A) of this section;

(B) Will provide the notice to its clearing members required by paragraph (e)(3)(i)(B) of this section;

(C) Has provided the notice to the general public required by paragraph (e)(3)(ii)(A) of this section;

(D) Will provide notice to the general public required by paragraph (e)(3)(ii)(B) of this section; and

(E) Has removed all references to the organization as a subpart C derivatives clearing organization and a qualifying central counterparty on its Web site and in all other material that it provides to its clearing members and customers, other market participants or members of the public, as required by paragraph (e)(3)(ii)(C) of this section.

(2) Effective date. The rescission of the election to be subject to the provisions of this subpart C shall become effective on the date set forth in the notice of intent to rescind the election filed by the subpart C derivatives clearing organization pursuant to § 39.31(e)(1), provided that the rescission may become effective no earlier than 90 days after the notice of intent to rescind the election is filed with the Commission. The subpart C derivatives clearing organization shall continue to comply with all of the provisions of this subpart C until such effective date.

(3) Additional notice requirements.

(i) A subpart C derivatives clearing organization shall provide the following notices, at the following times, to each of its clearing members and shall have rules in place requiring each of its clearing members to provide the following notices to each of the clearing member's customers:

(A) No later than the filing of a notice of its intent to rescind its election to be subject to the provisions of this subpart C, written notice that it intends to file such notice with the Commission and the effective date thereof; and

(B) On the effective date of the rescission of its election to be subject to the provisions of this subpart C, written notice that the rescission has become effective.

(ii) A subpart C derivatives clearing organization shall:

(A) No later than the filing of a notice of its intent to rescind its election to be subject to the provisions of this subpart C, provide notice to the general public, displayed prominently on its Web site, of its intent to rescind its election to be subject to the provisions of this subpart C;

(B) On and after the effective date of the rescission of its election to be subject to the provisions of this subpart C, provide notice to the general public, displayed prominently on its Web site, that the rescission has become effective; and

(C) Prior to the filing of a notice of its intent to rescind its election to become subject to the provisions of this subpart C, remove all references to the derivatives clearing organization's status as a subpart C derivatives clearing organization and a qualifying central counterparty on its Web site and in all other materials that it provides to its clearing members and customers, other market participants, or the general public.

(iii) The employees and representatives of a derivatives clearing organization that has filed a notice of its intent to rescind its election to be subject to the provisions of this subpart C shall refrain from referring to the organization as a subpart C derivatives clearing organization and a qualifying central counterparty on and after the date that the notice of intent to rescind the election is filed.

(4) Effect of rescission. The rescission of a subpart C derivatives clearing organization's election to be subject to the provisions of this subpart C shall not affect the authority of the Commission concerning any activities or events occurring during the time that the derivatives clearing organization maintained its status as a subpart C derivatives clearing organization.

(f) *Loss of designation as a systemically important derivatives clearing organization.* A systemically important derivatives clearing organization whose designation of systemic importance is rescinded by the Financial Stability Oversight Council, shall immediately be deemed to be a subpart C derivatives clearing organization and shall continue to

comply with the provisions of this subpart C unless such derivatives clearing organization elects to rescind its status as a subpart C derivatives clearing organization in accordance with the requirements of paragraph (e) of this section.

(g) All forms and notices required by this § 39.31 shall be filed electronically with the Secretary of the Commission in the format and manner specified by the Commission.

§ 39.32 Governance for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *General rules.* (1) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall have governance arrangements that:

(i) Are written;

(ii) Are clear and transparent;

(iii) Place a high priority on the safety and efficiency of the systemically important derivatives clearing organization or subpart C derivatives clearing organization; and

(iv) Explicitly support the stability of the broader financial system and other relevant public interest considerations of clearing members, customers of clearing members, and other relevant stakeholders.

(2) The board of directors shall make certain that the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's design, rules, overall strategy, and major decisions appropriately reflect the legitimate interests of clearing members, customers of clearing members, and other relevant stakeholders.

(3) To an extent consistent with other statutory and regulatory requirements on confidentiality and disclosure:

(i) Major decisions of the board of directors should be clearly disclosed to clearing members, other relevant stakeholders, and to the Commission; and

(ii) Major decisions of the board of directors having a broad market impact should be clearly disclosed to the public;

(b) *Governance arrangements.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall have governance arrangements that:

(1) Are clear and documented;

(2) To an extent consistent with other statutory and regulatory requirements on confidentiality and disclosure, are disclosed, as appropriate, to the Commission and to other relevant authorities, to clearing members and to customers of clearing members, to the owners of the systemically important derivatives clearing organization or subpart C derivatives clearing organization, and to the public;

(3) Describe the structure pursuant to which the board of directors, committees, and management operate;

(4) Include clear and direct lines of responsibility and accountability;

(5) Clearly specify the roles and responsibilities of the board of directors and its committees, including the establishment of a clear and documented risk management framework;

(6) Clearly specify the roles and responsibilities of management;

(7) Describe procedures for identifying, addressing, and managing conflicts of interest involving members of the board of directors;

(8) Describe procedures pursuant to which the board of directors oversees the chief risk officer, risk management committee, and material risk decisions;

(9) Assign responsibility and accountability for risk decisions, including in crises and emergencies; and

(10) Assign responsibility for implementing the:

(i) Default rules and procedures required by §§ 39.16 and 39.35;

(ii) System safeguard rules and procedures required by §§ 39.18 and 39.34; and

(iii) Recovery and wind-down plans required by § 39.39.

(c) *Fitness standards for board of directors and management.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall maintain policies to make certain that:

(1) The board of directors consists of suitable individuals having appropriate skills and incentives;

(2) The board of directors includes individuals who are not executives, officers or employees of the systemically important derivatives clearing organization or subpart C derivatives clearing organization or an affiliate thereof;

(3) The performance of the board of directors and the performance of individual directors are reviewed on a regular basis;

(4) Managers have the appropriate experience, skills, and integrity necessary to discharge operational and risk management responsibilities; and

(5) Risk management and internal control personnel have sufficient independence, authority, resources, and access to the board of directors so that the operations of the systemically important derivatives clearing organization or subpart C derivatives clearing organization are consistent with the risk management framework established by the board of directors.

§ 39.33 Financial resources requirements for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *General rule.* (1) Notwithstanding the requirements of § 39.11(a)(1), each systemically important derivatives clearing organization and subpart C derivatives clearing organization that, in either case, is systemically important in multiple jurisdictions or is involved in activities with a more complex risk profile shall maintain financial resources sufficient to enable it to meet its credit exposure to its clearing members notwithstanding a default by the two clearing members creating the largest aggregate credit exposure for the derivatives clearing organization in extreme but plausible market conditions.

(2) The Commission shall, if it deems appropriate, determine whether a systemically important derivatives clearing organization or subpart C derivatives clearing organization is systemically important in multiple jurisdictions. In determining whether a systemically important derivatives clearing organization or subpart C derivatives clearing organization is systemically important in multiple jurisdictions, the Commission shall consider whether the derivatives clearing organization:

(i) Is a systemically important derivatives clearing organization, as defined by § 39.2; or

(ii) Has been determined to be systemically important by one or more jurisdictions other than the United States pursuant to a designation process that considers whether the foreseeable effects of a failure or disruption of the derivatives clearing organization could threaten the stability of each relevant jurisdiction's financial system.

(3) The Commission shall, if it deems appropriate, determine whether any of the activities of a systemically important derivatives clearing organization or a subpart C derivatives clearing organization, in addition to clearing credit default swaps, credit default futures, and any derivatives that reference either credit default swaps or credit default futures, has a more complex risk profile. In determining whether an activity has a more complex risk profile, the Commission will consider characteristics such as discrete jump-to-default price changes or high correlations with potential participant defaults as factors supporting (though

not necessary for) a finding of a more complex risk profile.

(4) For purposes of this section 39.33, if a clearing member controls another clearing member or is under common control with another clearing member, such affiliated clearing members shall be deemed to be a single clearing member.

(b) *Valuation of financial resources.* Notwithstanding the provisions of § 39.11(d)(2), assessments for additional guaranty fund contributions (*i.e.,* guaranty fund contributions that are not pre-funded) shall not be included in calculating the financial resources available to meet a systemically important derivatives clearing organization's or subpart C derivatives clearing organization's obligations under paragraph (a) of this section or § 39.11(a)(1).

(c) *Liquidity resources*—(1) *Minimum amount of liquidity resources.*

(i) Notwithstanding the provisions of § 39.11(e)(1)(ii), each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall maintain eligible liquidity resources that, at a minimum, will enable it to meet its intraday, same-day, and multiday obligations to perform settlements, as defined in § 39.14(a)(1), with a high degree of confidence under a wide range of stress scenarios that should include, but not be limited to, a default by the clearing member creating the largest aggregate liquidity obligation for the systemically important derivatives clearing organization or subpart C derivatives clearing organization in extreme but plausible market conditions.

(ii) A systemically important derivatives clearing organization and subpart C derivatives clearing organization that is subject to § 39.33(a)(1) shall consider maintaining eligible liquidity resources that, at a minimum, will enable it to meet its intraday, same-day, and multiday obligations to perform settlements, as defined in § 39.14(a)(1), with a high degree of confidence under a wide range of stress scenarios that should include, but not be limited to, a default of the two clearing members creating the largest aggregate liquidity obligation for the systemically important derivatives clearing organization or subpart C derivatives clearing organization in extreme but plausible market conditions.

(2) *Satisfaction of settlement in all relevant currencies.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall maintain liquidity resources that are sufficient to satisfy the obligations required by paragraph (c)(1) of this section in all relevant currencies for which the systemically important derivatives clearing organization or subpart C derivatives clearing organization has obligations to perform settlements, as defined in § 39.14(a)(1), to its clearing members.

(3) *Qualifying liquidity resources.* (i) Only the following liquidity resources are eligible for the purpose of meeting the requirement of paragraph (c)(1) of this section:

(A) Cash in the currency of the requisite obligations, held either at the central bank of issue or at a creditworthy commercial bank;

(B) Committed lines of credit;

(C) Committed foreign exchange swaps;

(D) Committed repurchase agreements; or

(E) (*1*) Obligations of the United States Treasury or high quality, liquid, general obligations of a sovereign nation.

(*2*) The assets described in paragraph (c)(3)(i)(E)(*1*) of this section must be readily available and convertible into cash pursuant to prearranged and highly reliable funding arrangements.

(ii) With respect to the arrangements described in paragraph (c)(3)(i) of this section, the systemically important derivatives clearing organization or subpart C derivatives clearing organization must take appropriate steps to verify that such arrangements do not include material adverse change provisions and are enforceable, and will be highly reliable, in extreme but plausible market conditions.

(4) *Additional liquidity resources.* If a systemically important derivatives clearing organization or subpart C derivatives clearing organization maintains financial resources in addition to those required to satisfy paragraph (c)(1) of this section, then those resources should be in the form of assets that are likely to be saleable with proceeds available promptly or acceptable as collateral for lines of credit, swaps, or repurchase agreements on an *ad hoc* basis. A systemically important derivatives clearing organization or subpart C derivatives clearing organization should consider maintaining collateral with low credit, liquidity, and market risks that is typically accepted by a central bank of issue for any currency in which it may have settlement obligations, but shall not assume the availability of emergency central bank credit as a part of its liquidity plan.

(d) *Liquidity providers.* (1) For the purposes of this paragraph, a liquidity provider means:

(i) A depository institution, a U.S. branch and agency of a foreign banking organization, a trust company, or a syndicate of depository institutions, U.S. branches and agencies of foreign banking organizations, or trust companies providing a line of credit, foreign exchange swap facility or repurchase facility to a systemically important derivatives clearing organization or subpart C derivatives clearing organization;

(ii) Any other counterparty relied upon by a systemically important derivatives clearing organization or subpart C derivatives clearing organization to meet its minimum liquidity resources requirement under paragraph (c) of this section.

(2) In fulfilling its obligations under paragraph (c) of this section, each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall undertake due diligence to confirm that each of its liquidity providers, whether or not such liquidity provider is a clearing member, has:

(i) Sufficient information to understand and manage the liquidity provider's liquidity risks; and

(ii) The capacity to perform as required under its commitments to provide liquidity to the systemically important derivatives clearing organization or subpart C derivatives clearing organization.

(3) Where relevant to a liquidity provider's ability reliably to perform its commitments with respect to a particular currency, the systemically important derivatives clearing organization or subpart C derivatives clearing organization may take into account the liquidity provider's access to the central bank of issue of that currency.

(4) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall regularly test its procedures for accessing its liquidity resources under paragraph (c)(3)(i) of this section, including testing its arrangements under paragraph (c)(3)(ii) and its relevant liquidity provider(s) under paragraph (d)(1) of this section.

(5) A systemically important derivatives clearing organization with access to accounts and services at a Federal Reserve Bank, pursuant to section 806(a) of the Dodd-Frank Act, 12 U.S.C. 5465(a), shall use these services, where practical.

(e) *Documentation of financial resources and liquidity resources.* Each

systemically important derivatives clearing organization and subpart C derivatives clearing organization shall document its supporting rationale for, and have appropriate governance arrangements relating to, the amount of total financial resources it maintains pursuant to paragraph (a) of this section and the amount of total liquidity resources it maintains pursuant to paragraph (c) of this section.

§ 39.34 System safeguards for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) Notwithstanding § 39.18(e)(3), the business continuity and disaster recovery plan described in § 39.18(e)(1) for each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall have the objective of enabling, and the physical, technological, and personnel resources described in § 39.18(e)(1) shall be sufficient to enable, the systemically important derivatives clearing organization or subpart C derivatives clearing organization to recover its operations and resume daily processing, clearing, and settlement no later than two hours following the disruption, for any disruption including a wide-scale disruption.

(b) To facilitate its ability to achieve the recovery time objective specified in paragraph (a) of this section in the event of a wide-scale disruption, each systemically important derivatives clearing organization and subpart C derivatives clearing organization must maintain a degree of geographic dispersal of physical, technological and personnel resources consistent with the following for each activity necessary for the daily processing, clearing, and settlement of existing and new contracts:

(1) Physical and technological resources (including a secondary site), sufficient to enable the entity to meet the recovery time objective after interruption of normal clearing by a wide-scale disruption, must be located outside the relevant area of the physical and technological resources the systemically important derivatives clearing organization or subpart C derivatives clearing organization normally relies upon to conduct that activity, and must not rely on the same critical transportation, telecommunications, power, water, or other critical infrastructure components the entity normally relies upon for such activities;

(2) Personnel, who live and work outside that relevant area, sufficient to enable the entity to meet the recovery time objective after interruption of normal clearing by a wide-scale disruption affecting the relevant area in which the personnel the entity normally relies upon to engage in such activities are located;

(3) The provisions of § 39.18(f) shall apply to these resource requirements.

(c) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization must conduct regular, periodic tests of its business continuity and disaster recovery plans and resources and its capacity to achieve the required recovery time objective in the event of a wide-scale disruption. The provisions of § 39.18(j) apply to such testing.

(d) The Commission may, upon application, grant an entity, which has been designated as a systemically important derivatives clearing organization or that has elected to become subject to subpart C, up to one year to comply with any provision of this section.

§ 39.35 Default rules and procedures for uncovered credit losses or liquidity shortfalls (recovery) for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *Allocation of uncovered credit losses.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall adopt explicit rules and procedures that address fully any loss arising from any individual or combined default relating to any clearing members' obligations to the systemically important derivatives clearing organization or subpart C derivatives clearing organization. Such rules and procedures shall address how the systemically important derivatives clearing organization or subpart C derivatives clearing organization would:

(1) Allocate losses exceeding the financial resources available to the systemically important derivatives clearing organization or subpart C derivatives clearing organization;

(2) Repay any funds it may borrow; and

(3) Replenish any financial resources it may employ during such a stress event, so that the systemically important derivatives clearing organization or subpart C derivatives clearing organization can continue to operate in a safe and sound manner.

(b) *Allocation of uncovered liquidity shortfalls.* (1) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall establish rules and/or procedures that enable it promptly to meet all of its settlement obligations, on a same day and, as appropriate, intraday and multiday basis, in the context of the occurrence of either or both of the following scenarios:

(i) An individual or combined default involving one or more clearing members' obligations to the systemically important derivatives clearing organization or subpart C derivatives clearing organization; or

(ii) A liquidity shortfall exceeding the financial resources of the systemically important derivatives clearing organization or subpart C derivatives clearing organization.

(2) The rules and procedures described in paragraph (b)(1) of this section shall:

(i) Enable the systemically important derivatives clearing organization or subpart C derivatives clearing organization promptly to meet its payment obligations in all relevant currencies;

(ii) Be designed to enable the systemically important derivatives clearing organization or subpart C derivatives clearing organization to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations; and

(iii) Address the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's process to replenish any liquidity resources it may employ during a stress event so that it can continue to operate in a safe and sound manner.

§ 39.36 Risk management for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *Stress tests of financial resources.* In addition to conducting stress tests pursuant to § 39.13(h)(3), each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall conduct stress tests of its financial resources in accordance with the following standards and practices:

(1) Perform, on a daily basis, stress testing of its financial resources using predetermined parameters and assumptions;

(2) Perform comprehensive analyses of stress testing scenarios and underlying parameters to ascertain their appropriateness for determining the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's required level of financial resources in current and evolving market conditions;

(3) Perform the analyses required by paragraph (a)(2) of this section at least monthly and when products cleared or markets served display high volatility or become less liquid, when the size or concentration of positions held by clearing members increases significantly, or as otherwise appropriate, evaluate the stress testing scenarios, models, and underlying parameters more frequently than once a month;

(4) For the analyses required by paragraph (a)(1) and paragraph (a)(2) of this section, include a range of relevant stress scenarios, in terms of both defaulting clearing members' positions and possible price changes in liquidation periods. The scenarios considered shall include, but are not limited to, the following:

(i) Relevant peak historic price volatilities;

(ii) Shifts in other market factors including, as appropriate, price determinants and yield curves;

(iii) Multiple defaults over various time horizons;

(iv) Simultaneous pressures in funding and asset markets; and

(v) A range of forward-looking stress scenarios in a variety of extreme but plausible market conditions.

(5) Establish procedures for:

(i) Reporting stress test results to its risk management committee or board of directors, as applicable; and

(ii) Using the results to assess the adequacy of, and to adjust, its total amount of financial resources; and

(6) Use the results of stress tests to support compliance with the minimum financial resources requirement set forth in § 39.33(a).

(b) *Sensitivity analysis of margin model.*

(1) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall, at least monthly and more frequently as appropriate, conduct a sensitivity analysis of its margin models to analyze and monitor model performance and overall margin coverage. Sensitivity analysis shall be conducted on both actual and hypothetical positions.

(2) For the purposes of this paragraph (b), a sensitivity analysis of a margin model includes:

(i) Reviewing a wide range of parameter settings and assumptions that reflect possible market conditions in order to understand how the level of margin coverage might be affected by highly stressed market conditions. The range of parameters and assumptions should capture a variety of historical and hypothetical conditions, including the most volatile periods that have been experienced by the markets served by the systemically important derivatives clearing organization or subpart C derivatives clearing organization and extreme changes in the correlations between prices.

(ii) Testing of the ability of the models or model components to produce accurate results using actual or hypothetical datasets and assessing the impact of different model parameter settings.

(iii) Evaluating potential losses in clearing members' proprietary positions and, where appropriate, customer positions.

(3) A systemically important derivatives clearing organization or subpart C derivatives clearing organization involved in activities with a more complex risk profile shall take into consideration parameter settings that reflect the potential impact of the simultaneous default of clearing members and, where applicable, the underlying credit instruments.

(c) *Stress tests of liquidity resources.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall conduct stress tests of its liquidity resources in accordance with the following standards and practices:

(1) Perform, on a daily basis, stress testing of its liquidity resources using predetermined parameters and assumptions;

(2) Perform comprehensive analyses of stress testing scenarios and underlying parameters to ascertain their appropriateness for determining the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's required level of liquidity resources in current and evolving market conditions;

(3) Perform the analyses required by paragraph (c)(2) of this section at least monthly and when products cleared or markets served display high volatility or become less liquid, when the size or concentration of positions held by clearing members increases significantly, or as otherwise appropriate, evaluate its stress testing scenarios, models, and underlying parameters more frequently than once a month;

(4) For the analyses required by paragraph (c)(1) and paragraph (c)(2) of this section, include a range of relevant stress scenarios, in terms of both defaulting clearing members' positions and possible price changes in liquidation periods. The scenarios considered shall include, but are not limited to, the following:

(i) Relevant peak historic price volatilities;

(ii) Shifts in other market factors including, as appropriate, price determinants and yield curves;

(iii) Multiple defaults over various time horizons;

(iv) Simultaneous pressures in funding and asset markets; and

(v) A range of forward-looking stress scenarios in a variety of extreme but plausible market conditions.

(5) For the scenarios enumerated in paragraph (c)(4) of this section, consider the following:

(i) All entities that might pose material liquidity risks to the systemically important derivatives clearing organization or subpart C derivatives clearing organization, including settlement banks, permitted depositories, liquidity providers, and other entities,

(ii) Multiday scenarios as appropriate,

(iii) Inter-linkages between its clearing members and the multiple roles that they may play in the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's risk management; and

(iv) The probability of multiple failures and contagion effect among clearing members.

(6) Establish procedures for:

(i) Reporting stress test results to its risk management committee or board of directors, as applicable; and

(ii) Using the results to assess the adequacy of, and to adjust its total amount of liquidity resources.

(7) Use the results of stress tests to support compliance with the liquidity resources requirement set forth in § 39.33(c).

(d) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall regularly conduct an assessment of the theoretical and empirical properties of its margin model for all products it clears.

(e) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall perform, on an annual basis, a full validation of its financial risk management model and its liquid risk management model.

(f) *Custody and investment risk.* Custody and investment arrangements of a systemically important derivatives clearing organization's and subpart C derivatives clearing organization's own funds and assets shall be subject to the same requirements as those specified in § 39.15 of this chapter for the funds and assets of clearing members, and shall apply to the derivatives clearing

organization's own funds and assets to the same extent as if such funds and assets belonged to clearing members.

(g) *Settlement banks.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall:

(1) Monitor, manage, and limit its credit and liquidity risks arising from its settlement banks;

(2) Establish, and monitor adherence to, strict criteria for its settlement banks that take account of, among other things, their regulation and supervision, creditworthiness, capitalization, access to liquidity, and operational reliability; and

(3) Monitor and manage the concentration of credit and liquidity exposures to its settlement banks.

§ 39.37 Additional disclosure for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

In addition to the requirements of § 39.21, each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall:

(a) Complete and publicly disclose its responses to the Disclosure Framework for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions;

(b) Review and update its responses disclosed as required by paragraph (a) of this section at least every two years and following material changes to the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's system or the environment in which it operates. A material change to the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's system or the environment in which it operates is a change that would significantly change the accuracy and usefulness of the existing responses;

(c) Disclose, publicly and to the Commission, relevant basic data on transaction volume and values; and

(d) Disclose, publicly and to the Commission, rules, policies, and procedures concerning segregation and portability of customers' positions and funds, including whether each of:

(1) Futures customer funds, as defined in § 1.3(jjjj) of this chapter;

(2) Cleared Swaps Customer Collateral, as defined in § 22.1 of this chapter; or

(3) Foreign futures or foreign options secured amount, as defined in § 1.3(rr) of this chapter is:

(i) Protected on an individual or omnibus basis or

(ii) Subject to any constraints, including any legal or operational constraints that may impair the ability of the systemically important derivatives clearing organization or subpart C derivatives clearing organization to segregate or transfer the positions and related collateral of a clearing member's customers.

§ 39.38 Efficiency for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *General rule.* In order to meet the needs of clearing members and markets, each systemically important derivatives clearing organization and subpart C derivatives clearing organization should efficiently and effectively design its:

(1) Clearing and settlement arrangements;

(2) Operating structure and procedures;

(3) Scope of products cleared; and

(4) Use of technology.

(b) *Review of efficiency.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization should establish a mechanism to review, on a regular basis, its compliance with paragraph (a) of this section.

(c) *Clear goals and objectives.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization should have clearly defined goals and objectives that are measurable and achievable, including in the areas of minimum service levels, risk management expectations, and business priorities.

(d) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall facilitate efficient payment, clearing and settlement by accommodating internationally accepted communication procedures and standards.

§ 39.39 Recovery and wind-down for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *Definitions.* For purposes of this section:

(1) *General business risk* means any potential impairment of a systemically important derivatives clearing organization's or subpart C derivatives clearing organization's financial position, as a business concern, as a consequence of a decline in its revenues or an increase in its expenses, such that expenses exceed revenues and result in a loss that the derivatives clearing organization must charge against capital.

(2) *Wind-down* means the actions of a systemically important derivatives clearing organization or subpart C derivatives clearing organization to effect the permanent cessation or sale or transfer or one or more services.

(3) *Recovery* means the actions of a systemically important derivatives clearing organization or subpart C derivatives clearing organization, consistent with its rules, procedures, and other *ex-ante* contractual arrangements, to address any uncovered credit loss, liquidity shortfall, capital inadequacy, or business, operational or other structural weakness, including the replenishment of any depleted pre-funded financial resources and liquidity arrangements, as necessary to maintain the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's viability as a going concern.

(4) *Operational risk* means the risk that deficiencies in information systems or internal processes, human errors, management failures or disruptions from external events will result in the reduction, deterioration, or breakdown of services provided by a systemically important derivatives clearing organization or subpart C derivatives clearing organization.

(5) *Unencumbered liquid financial assets* include cash and highly liquid securities.

(b) *Recovery and wind-down plan.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall maintain viable plans for:

(1) Recovery or orderly wind-down, necessitated by uncovered credit losses or liquidity shortfalls; and, separately,

(2) Recovery or orderly wind-down necessitated by general business risk, operational risk, or any other risk that threatens the derivatives clearing organization's viability as a going concern.

(c) (1) In developing the plans specified in paragraph (b) of this section, the systemically important derivatives clearing organization or subpart C derivatives clearing organization shall identify scenarios that may potentially prevent it from being able to meet its obligations, provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. The plans shall include procedures for informing the Commission, as soon as practicable, when the recovery plan is initiated or wind-down is pending,

(2) A systemically important derivatives clearing organization or subpart C derivatives clearing organization shall have procedures for providing the Commission and the Federal Deposit Insurance Corporation with information needed for purposes of resolution planning.

(d) *Financial resources to support the recovery and wind-down plan.*

(1) In evaluating the resources available to cover an uncovered credit loss or liquidity shortfall as part of its recovery plans pursuant to paragraph (b)(1) of this section, a systemically important derivatives clearing organization or subpart C derivatives clearing organization may consider, among other things, assessments of additional resources provided for under its rules that it reasonably expects to collect from non-defaulting clearing members.

(2) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall maintain sufficient unencumbered liquid financial assets, funded by the equity of its owners, to implement its recovery or wind-down plans pursuant to paragraph (b)(2) of this section. In general, the financial resources required by § 39.11(a)(2) may be sufficient, but the systemically important derivatives clearing organization or subpart C derivatives clearing organization shall analyze its particular circumstances and risks and maintain any additional resources that may be necessary to implement the plans. In allocating sufficient financial resources to implement the plans, the systemically important derivatives clearing organization or subpart C derivatives clearing organization shall comply with § 39.11(e)(2). The plan shall include evidence and analysis to support the conclusion that the amount considered necessary is, in fact, sufficient to implement the plans.

(3) Resources counted in meeting the requirements of §§ 39.11(a)(1) and 39.33 may not be allocated, in whole or in part, to the recovery plans required by paragraph (b)(2) of this section. Other resources may be allocated, in whole or in part, to the recovery plans required by either paragraph (b)(1) or paragraph (b)(2) of this section, but not both paragraphs, and only to the extent the use of such resources is not otherwise limited by the Act, Commission regulations, the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's rules, or any contractual arrangements to which the systemically important derivatives clearing organization or subpart C derivatives clearing organization is a party.

(e) *Plan for raising additional financial resources.* All systemically important derivatives clearing organizations and subpart C derivatives clearing organizations shall maintain viable plans for raising additional financial resources, including, where appropriate, capital, in a scenario in which the systemically important derivatives clearing organization or subpart C derivatives clearing organization is unable, or virtually unable, to comply with any financial resources requirements set forth in this part. This plan shall be approved by the board of directors and be updated regularly.

§ 39.40 Consistency with the Principles for Financial Market Infrastructures.

This subpart C is intended to establish standards which, together with subparts A and B of this part, are consistent with section 5b(c) of the Act and the Principles for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions and should be interpreted in that context.

§ 39.41 Special enforcement authority for systemically important derivatives clearing organizations.

For purposes of enforcing the provisions of Title VIII of the Dodd-Frank Act, a systemically important derivatives clearing organization shall be subject to, and the Commission has authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the systemically important derivatives clearing organization were an insured depository institution and the Commission were the appropriate Federal banking agency for such insured depository institution.

§ 39.42 Advance notice of material risk-related rule changes by systemically important derivatives clearing organizations.

A systemically important derivatives clearing organization shall provide notice to the Commission in advance of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the systemically important derivatives clearing organization, in accordance with the requirements of § 40.10 of this chapter.

■ 5. Redesignate the Appendix to Part 39 as Appendix A to Part 39.

■ 6. Add appendix B to Part 39 to read as follows:

Appendix B to Part 39—Subpart C Election Form

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

SUBPART C ELECTION FORM

GENERAL INSTRUCTIONS

GENERAL INSTRUCTIONS

Intentional misstatements or omissions of fact may constitute federal criminal violations (7 U.S.C. § 13 and 18 U.S.C. § 1001).

DEFINITIONS

Unless the context requires otherwise, all terms used in this Subpart C Election Form have the same meaning as in the Commodity Exchange Act ("Act"), and in the General Rules and Regulations of the Commodity Futures Trading Commission ("Commission") thereunder. All references to Commission regulations are found at 17 CFR Ch. 1.

For purposes of this Subpart C Election Form, the term "Applicant" shall mean a derivatives clearing organization that is filing this Subpart C Election Form with a Form DCO as part of an application for registration as a derivatives clearing organization pursuant to Section 5b of the Act and 17 CFR 39.3(a).

GENERAL INSTRUCTIONS

1. Any derivatives clearing organization requesting an election to become subject to subpart C of part 39 of the Commission's regulations must file this Subpart C Election Form. The Subpart C Election Form includes the election to be subject to the provisions of subpart C of part 39 of the Commission's regulations, certain required certifications, disclosures, and exhibits, and any supplements or amendments thereto filed pursuant to 17 CFR 39.31(b) or (c) (collectively, the "Subpart C Election Form").

2. Individuals' names, except the executing signature, shall be given in full (Last Name, First Name, Middle Name).

3. The signatures required in this Subpart C Election Form shall be the manual signatures of: a duly authorized representative of the derivatives clearing organization as follows: If the Subpart C Election Form is filed by a corporation, it must be signed in the name of the corporation by a principal officer duly authorized; if filed by a limited liability company, it must be signed in the name of the limited liability company by a manager or member duly authorized to sign on the limited liability company's behalf; if filed by a partnership, it must be signed in the name of the partnership by a general partner duly authorized; if filed by an unincorporated organization or association which is not a partnership, it must be signed in the name of such organization or association by the managing agent, i.e., a duly authorized person who directs or manages or who participates in the directing or managing of its affairs.

4. All applicable items must be answered in full.

5. Under Section 5b of the Act and the Commission's regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this Subpart C Election Form from any Applicant seeking registration as a derivatives clearing organization and from any registered derivatives clearing organization.

6. Disclosure of the information specified in this Subpart C Election Form is mandatory prior to the processing of the election to become a derivatives clearing organization subject to the provisions of subpart C to part 39 of the Commission's regulations. The Commission may determine that additional information is required in order to process such election.

7. A Subpart C Election Form that is not prepared and executed in compliance with applicable requirements and instructions may be returned as not acceptable for filing. Acceptance of this Subpart C Election Form, however, shall not constitute a finding that the Subpart C Election Form is acceptable as filed or that the information is true, current or complete.

8. Except as provided in 17 CFR 39.31(d), in cases where a derivatives clearing organization submits a request for confidential treatment with the Secretary of the Commission pursuant to the Freedom of Information Act and 17 CFR 145.9, information supplied in this Subpart C Election Form will be included routinely in the public files of the Commission and will be made available for inspection by any interested person.

APPLICATION AMENDMENTS

1. 17 CFR 39.31(b)(3) and (c)(4) require a derivatives clearing organization that has submitted a Subpart C Election Form to promptly amend its Subpart C Election Form if it discovers a material omission or error in, or if there is a material change in, the information provided to the Commission in the Subpart C Election Form or other information provided in connection with the Subpart C Election Form. When amending a Subpart C Election Form, a derivatives clearing organization must re-file the Election and Certifications page, amended if necessary, and including all required executing signatures, and attach thereto revised exhibits or other materials marked to show changes, as applicable.

WHERE TO FILE

This Subpart C Election Form must be filed electronically with the Secretary of the Commission in the format and manner specified by the Commission.

COMMODITY FUTURES TRADING COMMISSION

SUBPART C ELECTION FORM

ELECTION AND CERTIFICATIONS

_____

Exact Name of the Derivatives Clearing Organization
(as set forth in its charter, if an Applicant,
or as set forth in its most recent order of registration, if registered with the Commission)

☐ Check here and complete sections 1 and 3 below, if the organization is an Applicant.

☐ Check here and complete sections 2 and 3 below, if the organization currently is registered with the Commission as a derivatives clearing organization.

1. The derivatives clearing organization named above hereby elects to become subject to the provisions of subpart C to part 39 of the Commission's regulations in the event that the Commission approves its application for registration as a derivatives clearing organization.

   The derivatives clearing organization and the undersigned each certify that, in the event that the Commission approves the derivatives clearing organization's application for registration and permits its election to become subject subpart C to part 39 of the Commission's regulations to take effect, the derivatives clearing organization will be in compliance with such regulations as of the date set forth in the notice thereof provided by the Commission pursuant to 17 CFR 39.31(c)(2) and will remain in compliance until such election is rescinded pursuant to17 CFR 39.31(e).

_____

Name of Derivatives Clearing Organization

By:_____

Manual Signature of Duly Authorized Person

_____

Print Name and Title of Signatory

2. The derivatives clearing organization named above hereby elects to become subject to the provisions of subpart C to part 39 of the Commission's regulations as of:

   _____ ("Effective Date")
   [insert date, which must be **at least 10 business days after the date this Subpart C Election Form is filed with the Commission**].

The derivatives clearing organization and the undersigned each certify that, as of the Effective Date set forth above, the derivatives clearing organization shall be in compliance with subpart C to part 39 of the Commission's regulations and shall remain in compliance with such regulations until the election is rescinded pursuant to 17 CFR 39.31(e).

_____

Name of Derivatives Clearing Organization

By:_____

Manual Signature of Duly Authorized Person

_____

Print Name and Title of Signatory

3. The derivatives clearing organization named above has duly caused this Subpart C Election Form (which includes, as an integral part thereof, the Election and Certifications and all Disclosures and Exhibits) to be signed on its behalf by its duly authorized representative as of the _____ day of _____, 20_____. The derivatives clearing organization and the undersigned each represent hereby that, to the best of their knowledge, all information contained in this Subpart C Election Form is true, current and complete in all material respects. It is understood that all required items including, without limitation, the Election and Certifications and Disclosures and Exhibits, are considered integral parts of this Subpart C Election Form.

_____

Name of Derivatives Clearing Organization

By:_____

Manual Signature of Duly Authorized Person

_____

Print Name and Title of Signatory

COMMODITY FUTURES TRADING COMMISSION

PART 39, SUBPART C ELECTION FORM

DISCLOSURES AND EXHIBITS

Each derivatives clearing organization that requests an election to become subject to the provisions set forth in subpart C to part 39 of the Commission's regulations shall provide the Disclosures and Exhibits set forth below:

DISCLOSURES:

The derivatives clearing organization shall:

1. Publish on its website in a readily identifiable location the derivatives clearing organization's responses to the Disclosure Framework for Financial Market Infrastructures ("Disclosure Framework"), published by the Committee on Payment and Settlement Systems ("CPSS") and the Board of International Organization of Securities Commissions ("IOSCO") that are required to be completed pursuant to 17 CFR 39.37. The derivatives clearing organization's responses must be completed in accordance with section 2.0 and Annex A of the Disclosure Framework and must fully explain how the derivatives clearing organization observes the Principles for Financial Market Infrastructures ("PFMIs") published by CPSS and IOSCO.

   Provide the URL to the specific page on the derivatives clearing organization's website where its responses to the Disclosure Framework may be found:

   _____

2. In the event that CPSS and IOSCO publish the criteria for the disclosure by a Financial Market Infrastructure ("FMI") of quantitative information to enable stakeholders to evaluate FMIs and to make cross comparisons referenced in section 2.5 of the Disclosure Framework ("Quantitative Information Disclosure"), publish such Quantitative Information Disclosure in a readily identifiable location on the derivatives clearing organization's website.

If applicable, provide the URL to the specific page on the derivatives clearing organization's website where its Quantitative Information Disclosure may be found:

_____

—

EXHIBITS:

EXHIBIT INSTRUCTIONS:

1. The derivatives clearing organization must include a Table of Contents listing each Exhibit required by this Subpart C Election Form.

2. The Exhibits must be labeled as specified in this Subpart C Election Form. If any Exhibit requires information that is related to, or duplicative of, information required to be included in another Exhibit or, if the derivatives clearing organization is an Applicant, in its Form DCO, the derivatives clearing organization may summarize such information and provide a cross-reference to the Exhibit in this Subpart C Election Form that contains the required information.

The derivatives clearing organization shall provide the following Exhibits to this Subpart C Election Form:

EXHIBIT A – COMPLIANCE WITH SUBPART C

Attach, as **Exhibit A**, a regulatory compliance chart that's separately sets forth for §§ 39.32-39.39 of the Commission's regulations, citations to the relevant rules, policies, and procedures of the derivatives clearing organization that address each such regulation and a summary of the manner in which the derivatives clearing organization will comply with each regulation. All citations and compliance summaries shall be separated by individual regulation and shall be clearly labeled with the corresponding regulation.

EXHBIT B – GOVERNANCE

Attach, as **Exhibit B**, documents that demonstrate compliance with the governance requirements set forth in § 39.32 of the Commission's regulations.

EXHIBIT C – FINANCIAL RESOURCES

Attach, as **Exhibit C**, documents that demonstrate compliance with the financial resource requirements set forth in § 39.33 of the Commission's regulations.

EXHIBIT D – SYSTEM SAFEGUARDS

Attach, as **Exhibit D**, documents that demonstrate compliance with the system safeguard requirements set forth in § 39.34 of the Commission's regulations.

EXHIBIT E – DEFAULT RULES AND PROCEDURES FOR UNCOVERED LOSSES OR SHORTFALLS

Attach, as **Exhibit E**, documents that demonstrate compliance with the requirements for default rules and procedures for uncovered losses or shortfalls set forth in § 39.35 of the Commission's regulations.

EXHIBIT F – RISK MANAGEMENT

Attach, as **Exhibit F**, documents that demonstrate compliance with the risk management requirements set forth in § 39.36 of the Commission's regulations.

EXHIBIT G – RECOVERY AND WIND-DOWN

Attach, as **Exhibit G**, documents that demonstrate compliance with the recovery and wind-down requirements set forth in § 39.39 of the Commission's regulations.

BILLING CODE 6351–01–C

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

■ 7. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 2 and 12a.

■ 8. Amend § 140.94 to add new paragraphs (c)(12), (c)(13) and (c)(14) as follows:

§ 140.94 Delegation of authority to the Director of the Division of Clearing and Risk.

* * * * *

(c) * * *

(12) All functions reserved to the Commission in § 39.31 of this chapter; and

(13) The authority to approve the application described in § 39.34(d) of this chapter.

* * * * *

PART 190—BANKRUPTCY

■ 9. The authority citation for part 190 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7a, 12, 19, and 24, and 11 U.S.C. 362, 546, 548, 556, and 761–766, unless otherwise noted.

■ 10. In § 190.09, revise paragraph (b) to read as follows:

§ 190.09 Member property.

* * * * *

(b) *Scope of member property.* Member property shall include all money, securities and property received, acquired, or held by a clearing organization to margin, guarantee or secure, on behalf of a clearing member, the proprietary account, as defined in § 1.3 of this chapter, any account not belonging to a foreign futures or foreign options customer pursuant to the proviso in § 30.1(c), and any Cleared Swaps Proprietary Account, as defined in § 22.1: *Provided, however,* that any guaranty deposit or similar payment or deposit made by such member and any capital stock, or membership of such member in the clearing organization shall also be included in member property after payment in full, in each case in accordance with the by-laws or rules of the clearing organization, of that portion of:

(1) The net equity claim of the member based on its customer account; and

(2) Any obligations due to the clearing organization which may be paid therefrom, including any obligations due from the clearing organization to the customers of other members.

Issued in Washington, DC on August 12, 2013, by the Commission.

Melissa D. Jurgens,

Secretary of the Commission.

Appendix to Notice of Proposed Rulemaking on Derivatives Clearing Organizations and International Standards—Commission Voting Summary

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Chilton, O'Malia, and Wetjen voted in the affirmative.

[FR Doc. 2013–19845 Filed 8–15–13; 8:45 am]

BILLING CODE 6351–01–P

Reader Aids

Federal Register

Vol. 78, No. 159

Friday, August 16, 2013

CUSTOMER SERVICE AND INFORMATION

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, AUGUST

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

19 CFR

351.....46799

20 CFR

404.....46499
416.....46499

21 CFR

73.....49117
101.....47154

Proposed Rules:

1.....48636, 49988
16 .....48636, 48637, 49988
106.....48636
110.....48636
112.....48637
114.....48636
117.....48636
120.....48636
123.....48636
129.....48636
172.....49990
179.....48636
211.....48636

22 CFR

126.....47179

Proposed Rules:

303.....48083

23 CFR

Proposed Rules:

636.....46546

24 CFR

891.....49680

25 CFR

11.....49120

Proposed Rules:

151.....49990

26 CFR

1 .....46502, 46805, 46807, 46851, 46854, 48606, 48607, 49366, 49367
53.....49681
301.....49367
602.....48607, 49367

Proposed Rules:

1 .....46851, 46854, 49242
53.....49700

29 CFR

1960.....47180
4022.....49682

Proposed Rules:

1908.....48342

30 CFR

Proposed Rules:

7.....48593
75.....48592, 48593
1202.....48343
1203.....49062
1205.....48343
1210.....48343, 49062
1218.....49062

32 CFR

199.....48303
706.....48042

Proposed Rules:

68.....49382
199.....48366, 48367

33 CFR

100 .....46809, 47555, 48311
117 .....47191, 48314, 48315, 48608, 48609, 49918, 49920
165 .....46809, 46810, 46813, 46815, 47555, 47567, 48043, 48044, 48046, 48315, 48609, 48802, 48805, 49121, 49684, 49921, 49923

Proposed Rules:

117.....47242
165.....46855, 48085
175.....49412

34 CFR

Subtitle A 47980
75.....49338
77.....49338
668.....48048

Proposed Rules:

Ch. III.....46858, 46860

36 CFR

Proposed Rules:

1196.....49248
1250.....47245

40 CFR

9.....48051
52 .....46504, 46514, 46516, 46520, 46521, 46816, 47572, 48318, 48323, 48326, 48611, 48615, 48806, 49684, 49685, 49925
80.....49794
81.....47191
180 .....48068, 48618, 49927, 49932
300 .....47205, 48809, 49939
312.....49690
721.....48051
1037.....49963
1039.....49963
1042.....49963
1068.....49963

Proposed Rules:

Ch. I.....48845
52 .....46549, 46552, 46861, 47253, 47259, 47264, 48087, 48103, 48373, 48638, 49400, 49403, 49409, 49701, 49990, 49992
80.....49411
81.....48087, 48103
147.....48639
300 .....47267, 48844, 49993
312.....49714

41 CFR

Proposed Rules:

102–117.....49994

42 CFR

410.....48996
412.....47860
413.....47936
414.....48996
415.....48996
418.....48234
421.....48996
423.....48996
424.....47936
425.....48996
486.....48996
495.....48996

43 CFR

1820.....46525
3000.....49945

Proposed Rules:

2.....46555
3000.....49080
3400.....49080
3430.....49080
3470.....49080
3480.....49080

44 CFR

65.....49121
67.....48813
206.....49950

45 CFR

5b.....47210

Proposed Rules:

Subtitle A 46558
98.....49249
1614.....48848

46 CFR

30.....50148
150.....50148
153.....50148

Proposed Rules:

160.....49412
169.....49412
401.....48374

47 CFR

0.....49126
1 .....48621, 49126, 49370, 50214
27.....48621, 50214
43.....49126
54.....47211, 48622
64.....49693
73.....48625
90.....48626
101.....48621

Proposed Rules:

32.....49420
54.....48851
64.....49717
69.....48640
90.....48641

48 CFR

Ch.1 .....46780, 46796
2.....46781, 46795
4.....46782
8.....46783
12.....46783
15.....46783
16.....46792
17.....46783
22.....46795
25.....46782, 46792
42.....46783
49.....46783
52 .....46782, 46792, 46794, 46795
252.....48331, 48333
2409.....49697

Proposed Rules:

42.....48123
212.....48397
216.....48397
232.....48403
246.....48407
247.....48397
252 .....48397, 48403, 48407

49 CFR

95.....48334
395.....48817
535.....49963
611.....49372

Proposed Rules:

192.....46560, 49996
193.....49996
195.....49996
199.....49996
392.....48125
396.....48125
541.....50014
Ch. X.....49721

50 CFR

17.....49149, 49165
622 .....46820, 47212, 47574, 49183
648 .....47580, 49186, 49967
660.....49190
665.....48075
679.....49200

Proposed Rules:

17 .....46862, 46889, 47060, 47109, 47268, 47582, 47590, 47612, 47832, 49422, 49832, 49878
20.....47136
224.....48134
226.....46563, 47635
622.....49440
648 .....46897, 46903, 48852

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

Last List August 13, 2013

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.